

HISTORY OF THE PROVISIONAL GOVERNMENT OF OREGON.

BY HON. J. QUINN THORNTON.

CORRESPONDING MEMBER OF THE AMERICAN INSTITUTE, AND FORMERLY JUDGE OF THE
SUPREME COURT OF THE PROVISIONAL GOVERNMENT.

The Oregon Pioneer Association having, by its committee, requested me to write a very brief historical sketch of the Provisional Government of Oregon, for publication as a part of the Society's transactions, I now address myself to this task because I could not have been indifferent under any circumstances, to the manifestation of such a wish. And although I may regret that the narrow space within which I am required to confine my observations will make it necessary for me to do little more than bring before the reader the naked facts of the history of the Provisional Government of Oregon without the reflections and comments they would naturally suggest, yet the performance, however imperfect, in other respects, will, I trust, be found to be characterized by a fidelity to truth, without which, that claimed to be history, would be valueless for any of the purposes of instructing mankind.

The history of Oregon naturally divides itself into several distinctly marked periods, as

1. That of the commercial and other voyages and explorations, along the Northwest Coast, commencing with the voyages of Hurbado, Mendoza, Grigalva, and Becerra, in the North Pacific, in 1532, by order of Cortes, and ending with the voyage of Kousensteen and Lisiansky, from St. Petersburg, to the North Pacific in 1803, and the destruction of the ship Boston, of Boston, by the savages at Nootka Sound in the same year.
2. The expedition of Lewis and Clark in the year 1804, 1806.
3. Oregon during its occupancy by British and American Fur Companies, commencing in 1806, with Frazer and others in the employ of the Northwest

Trading Company, crossing the Rocky Mountains, and forming the first British establishment in that part of America on Frazer's Lake, and ending with Capt. Wyeth's attempt in 1834, to form American trading establishments west of the Rocky Mountains.

4. Commencing with the advent of the Methodist Missionaries in 1834, and terminating with the first attempt to establish a Provisional Government in 1841.

5. The history of the Provisional Government.

6. The history of Oregon during the existence of that government down to March 4th, 1849, when General Lane inaugurated the Territorial Government, authorized by the Act of Congress of August 4th, 1848.

7. Oregon during the Territorial Government, terminating on February 14th, 1859, when Congress passed an Act admitting Oregon into the Union with the Constitution adopted by the people November 9th, of the same year.

8. Oregon since the last named date.

The general subject being thus seen in its several parts: The history of the Provisional Government considered in this paper as an integral portion of that history will be more easily comprehended and understood in its relations to the other branches with which it stands associated.

Immediately preceding the time when American citizens as distinguished from American Missionaries came into Oregon to become permanent inhabitants, there were about fifty Canadian-Frenchmen in the Wallamet Valley, who having consorted with native women and spent the prime of their lives in the employment of the Hudson's Bay Company, had retired with their wives and half-breed children to spend their remaining days as cultivators of the soil in the beautiful valley of the Wallamet. These were, nevertheless, dependent upon the Hudson's Bay Company for the supplies necessary to enable them to enter upon their new mode of life and even to continue in it, since only that Company furnished or could furnish them with a market for the products of their labor. Through these retired employees and others equally dependant, the Hudson's Bay Company believed that it could exert a controlling influence in the settlement of the country and fill it with a population dependant upon the Company for supplies. Moreover, this mixed-blood population was relied upon to rally the Indian warriors of the country whenever this should become plainly necessary to retain the possession of the country, the title to which was then claimed by the United States and Great Britain.

This policy was very clearly indicated by Mr. F. Ermatinger, an officer in the Hudson's Bay Company, in the autumn of 1838, when he said that if any effort should be made by the Government of the United States to remove them

from the country, they would at once arm the eight hundred mixed-bloods the Company controlled in different parts of Oregon, and by means of these and their knowledge of the natural fastnesses in the mountains, the Company would hold Oregon against any force it was possible for the United States to bring into the field. The Hudson's Bay Company well understood and fully appreciated the magnitude of the power and influence it had over the aboriginal tribes through the mixed-bloods even more than through a well digested system of trade and barter which, while it yielded immense returns of profit, kept the Indians in a state of dependence, and at the same time made them willing instruments for working out any results desired by their employers. To Americans not in the employment of the Company (and few ever were) every facility was afforded for getting out of the country, but none for remaining permanently in it. The population, nevertheless, continued gradually to increase to an extent that greatly disturbed its Chief Factor, the late Dr. John McLaughlin, who, while the benevolence of his heart would not permit him to witness actual suffering without relieving it, yet whose views of financial policy prompted him to desire that the country might be left in the undisturbed possession of the subjects of the British sovereign.

These Americans thus gradually increasing the population of Oregon, were, for the most part, sailors from vessels and hunters from the mountains who naturally settled in around the Methodist Missionaries where such of them as had not already native women for wives, were encouraged to form matrimonial connections in preference to casual associations.

In the autumn of 1840, there were in Oregon thirty-six American male settlers, twenty-five of whom had taken native women for their wives. There were also thirty-three American women, thirty-two children, thirteen lay members of the Protestant Missions, thirteen Methodist ministers, six Congregational ministers, three Jesuit priests, and sixty Canadian-French, making an aggregate of one hundred and thirty-seven Americans, and sixty-three Canadian-French (including the priests in the latter class) having no connection as employees of the Hudson's Bay Company.

I have said that the population outside of the Hudson's Bay Company increased slowly. How much so, will be seen by the fact that up to the beginning of the year 1842, there were in Oregon no more than twenty-one Protestant ministers, three Jesuit priests, fifteen lay members of Protestant churches, thirty-four white women, thirty-two white children, thirty-four American settlers, twenty-five of whom had native wives. The total American population will thus be seen to have been no more than one hundred and thirty-seven.

As descriptive of this period in the history of Oregon so far as that relates to

the American inhabitants, we may appropriately quote the language of the sacred volume and say "In those days there was no king in Israel and every man did whatsoever was right in his own eyes." The same remark would not, however, be applicable to the subjects of the British sovereign who were living in Oregon with Americans under the treaty providing for the joint occupancy of the country, the title to which was then in dispute between the two governments. The English Parliament had extended the colonial jurisdiction and civil laws of Canada over all British subjects on this coast. Under this Act, Sir James Douglas, Angus McDonald, and a Mr. Wark, were commissioned as Justices of the Peace, and they exercised jurisdiction in civil cases not exceeding two hundred pounds sterling. In criminal cases, if the magistrate, on a preliminary examination, believed from the testimony that there was probable cause to believe that an offense had been committed by the accused, he was sent to Canada for final trial. In all matters of mere police and trade regulation, the Hudson's Bay Company exercised an authority as absolute as that of the Czar of Russia, and flogging was a common punishment which any officer from the Governor of the Company down to the petty clerk of a trading post, might inflict upon any one of the rank and file of employees. And that personal chastisement was not always confined to the mere servants of the Company, nor always inflicted by the lower grade of officers in power is shown by the fact that the late Dr. McLaughlin, on one occasion being stung by a reproof which Rev. Mr. Beaver the chaplain, believed it his ministerial duty to administer, because of some of the Dr's. alleged sinful practices, was at once kicked out of the office by the offended representative of British law and Hudson's Bay Company justice, at Fort Vancouver.

The American emigrants flattered themselves that in forming settlements in Oregon, they would not only improve their own condition but that they would thereby build up for the United States a solid foundation on which to establish the American claim to the country. They hoped to be made the honored instruments for establishing the institutions of christianity, civilization and republican government

"In the continuous woods
Where rolls the Oregon, and hears no sounds,
Save its own dashings."

Without intending to expatriate themselves from the country of their nativity or to renounce their citizenship, they exposed themselves in small parties to the danger of being cut off by savages as well as to other perils of a long and exhaustive journey of many months over arid deserts and trackless mountains. Having arrived at the end of their journey, with their little fortune, wrecked by the difficulties of the way, and with their bodies broken down by the fatigues of their long continued travel; they were at once exposed to the hardships and

privations incident to the settlement of all new countries, as also to those which were peculiar to their isolated condition, cut off as they were from the society and sympathies of civilized life, far from the inhabited borders of their native land, between which and them, there was a vast region traversed by roving tribes of Indian, whose hands were against every man, and whose predatory habits were the source of continued annoyance and danger.

In their immediate vicinity too, and indeed, in their midst, were the subjects of a princess, claiming the right to exercise a sovereign jurisdiction over the country, and possessing the power to crush the rising colony in its infancy, either by the force of arms, or by refusing to sell to them the supplies necessary to the maintenance of their existence. And if political considerations prevented the former, the American emigrants nevertheless painfully felt that they were in the power of a people whose interests were inimical to theirs.

In addition to these embarrassing and untoward circumstances, while the subjects of the British empire, as we have seen, were covered by the protecting ægis of its laws—the American emigrants, although from year to year they hoped to see the paternal care of their government extended over them, were from time to time doomed to bitter disappointment, and to realize that they were without just and equitable laws to govern them, and to feel that they occupied the extraordinary, and in every way anomalous position of a people who without having either renounced their country, or been actually renounced by it, were, nevertheless, without one.

Distant from the land of their birth, surrounded by restless tribes of Indians, who clamorously and insolently demanded of the immigrants pay for lands which the immigrants had neither the means nor the right to purchase; still ardently desiring to have their names and their destiny connected with that of the republic, and yet, often pierced to the heart by the thought, which would sometimes, unbidden, obtrude itself upon the mind, that they were the victims of their country's neglect and injustice, and suffering all the inconveniences and embarrassments which are necessarily felt by a resident and civilized community, without a system of laws for the conservation of peace and order, they were at length compelled to organize a provisional government.

But before the American settlers addressed themselves seriously to a work of the magnitude this was seen to possess, they sent to Congress a petition in 1840 in which among many other things, they said :

“ Your petitioners represent that they are residents in Oregon Territory, and citizens of the United States, or persons desirous of becoming such.

They further represent that they have settled themselves in said Territory, un-

der the belief that it was a portion of the public domain of the United States, and that they might rely upon the government thereof for the blessings of free institutions, and the protection of its arms.

But your petitioners further represent, that they are uninformed of any acts of said government by which its institutions and protection are extended to them; in consequence whereof, themselves and families are exposed to be destroyed by the savages *and others that would do them harm.**

And your petitioners would further represent, that they have no means of protecting their own and the lives of their families, other than self constituted tribunals, organized and sustained by the power of an ill instructed public opinion, and the resort to force and arms.

And your petitioners represent these means of safety to be an insufficient safeguard of life and property. * * * * *

Your petitioners wherefore pray the Congress of the United States of America, to establish, as soon as may be, a Territorial government in the Oregon Territory."

The reader's attention has probably been drawn in an especial manner to that portion of the petition, in which the settlers declared that "themselves and families are exposed to be destroyed by the savages around them, *and others that would do them harm.*" The inquiry which is at once suggested by this language is, what reasons did the petitioners believe they had for thinking that they were in danger of being destroyed by savages; and who were those "others that would do them harm?" Some remarks will be made having for their object an answer to these questions.

The title to Oregon was at the time in dispute between the United States and Great Britain. Under the treaty for joint occupancy, the Hudson's Bay Company controlling an immense amount of capital, had their trading posts established at all points most eligible for trading with the Indians and for collecting furs. All thus employed, felt that they were no longer under the mild and humanizing influences of civilization and law, and they found themselves in a vast wilderness inhabited only by savages, and where every man was a law to himself. Under such circumstances, the great mass of the hunters and trappers come to have ideas of right and wrong, which would not be recognized by a Christian community. They had come into the country for the purpose of making money by hunting and trapping and trading with the Indians. They had a right to do this, and from these premises they inferred the right to do whatever was necessary

*The words italicised were intended to refer to the Hudson's Bay Company.—THE AUTHOR.

to enable them to retain the exclusive occupancy of the country, and to keep out all American citizens who would come into it for the purposes of either trade or settlement. This spirit of exclusiveness and a determination that others should not be permitted to enjoy the benefits of the Indian trade, had developed itself long before the citizens of the United States had made any permanent trading establishments on the northwest coast. This fact is familiar to every reader who has any knowledge of the history of the Northwest Company and of the Hudson's Bay Company, both of which were British, whose mutual hostility springing out of a fierce spirit of commercial rivalry led finally to a state of actual war in which each sought to destroy their competitors by actually killing them, and by inciting the Indians to do so. But this state of things could not last forever, and it was after much bloodshed and loss of capital brought to an end by the two Companies merging their interests in one. This restored quiet and prosperity until the Americans, led by John Jacob Astor, began to enter upon this new field of enterprise. Then the old spirit of evil began to raise its snakey folds again above the surface of affairs, disturbed by the introduction of this new element. And although the treaty of joint occupancy and the difference in nationality imposed upon the Chief Factor and principal traders of the Hudson's Bay Company the necessity for considerable caution lest they involve the two governments in war, yet nevertheless their feelings against the American traders were intensely hostile, and carried them as far as they dared to go without being confronted by a war between two great nations.

Therefore no war was made upon the American traders and trappers, but facts which the limits of this historical sketch will not permit me to bring to the reader's attention, warrant something more than an opinion only, that the subordinate employees of the Company, and also the Indians come to understand that the hostilities by which name the Americans were known, were extremely offensive. It was probably from the license this was supposed to give that Smith's party perished at the Umpqua river by the Indians, who rushed upon them with bows and arrows made by themselves, and with tomahawks, scalping knives and muskets furnished them by the Hudson's Bay Company.

If this seem almost incredible to the reader, let me remind him that this is not as improbable as the well recognized facts which make up the history of the Hudson's Bay Company, and of the Northwest Company prior to their union.

The same spirit of commercial monopoly prompted the Hudson's Bay Company to do all in its power to discourage American traders and to cripple them in their enterprises. By such methods Capt. Wyeth was driven out of the country as others had been before him.

The petition of the settlers to Congress, to which reference has been made,

and from which a brief quotation has been given, clearly indicates a sense of the necessity for establishing civil government, and it at the same time shows a determination to address themselves to the task as soon as their circumstances would permit. But in performing this arduous and difficult labor, so necessary to the removal of a suspense that rendered the people dissatisfied and unhappy, and of an uncertainty that discouraged their efforts and depressed their energies, they had to meet and remove obstacles to the administration of a temporary system of government, which are unknown in establishing one intended to be permanent; yet fully impressed with the solemn conviction that it was better to unite the sinews of government in the hands of even a single despot, than to encounter the anarchy and confusion of a multitude without law, they addressed themselves to their work, difficult as it was, feeling that they merited the respectful consideration of the government at Washington, and that they at least would no longer be wanting in duty to themselves.

The first effort which was made with a view to the organization of a civil government was made at Champoege, which at that time was the seat of the principal settlement in the Wallamet valley. This was on the 7th of February, 1841, when "a meeting of some of the inhabitants was held," "for the purpose of consulting upon the steps necessary to be taken for the formation of laws, and the election of officers to execute them." The meeting was somewhat informal, and designed mainly for a preliminary consultation by a few persons connected with the Methodist Mission station, in the Wallamet valley. The late Rev. Jason Lee, at that time the Superintendent of the Methodist Mission among the Oregon Indians, was called to the chair, and he was requested to express his opinions as to what ought to be done in the premises. In a short speech in which his remarks seemed to be carefully considered, and in a manner which indicated that he felt oppressed by the grave responsibilities of the hour, he advised the selection of a committee for the purpose of drafting a constitution and code of laws for the government of the settlements south of the Columbia. Beyond this, little or nothing was done, except to recommend the people to consider whether it would not be well to fill the office of Governor and other necessary offices by persons named for the purpose.

At this time the people of Oregon were divided into two great divisions considered with reference to their allegiance—citizens of the United States, and the subjects of the British sovereign. The allegiance of the one class were in this respect in direct conflict with those of the other. This itself presented very grave obstacles in the way of establishing a government of any kind. But there were others even yet more formidable. Among the people, there were three classes, the gentleman of the Hudson's Bay Company, which was essentially an aristo-

cratic class that would not hesitate to beat an employee in the lower grade of the Company's service, and who of course were not aristocratic at all. Second, the Missionaries, who were in like manner regarded as the American aristocrats; and third, the common people of both nationalities, who, while steadily refusing to accept the social position assigned them by those who had the command of more money, yet nevertheless, were constrained to tacitly accept the position into which they were forced by the power which is always associated with the control of that, whatever it may be, which is customarily employed for the purpose of effecting the exchange of commodities.

At the time of this informal meeting, the late Dr. John McLaughlin resided at Fort Vancouver, and he was chief Factor of the Hudson's Bay Company west of the Rocky Mountains. He was a great man, upon whom God had stamped a grandeur of character which few men possess, and a nobility which the patent of no earthly sovereign can confer. His standard of commercial integrity would compare well with that of the best of men. As a Christian, he was devout Roman Catholic, yet, nevertheless, catholic in the largest sense of that word. While he was sometimes betrayed by his warm and impulsive nature, and great force of character, into doing or saying something of questionable propriety, he was notwithstanding a man of great goodness of heart, too wise to do a really foolish thing, too noble and magnanimous to condescend to meannesses, and too forgiving to cherish resentments. The writer, during the last years of Dr. McLaughlin's life, being his professional adviser, had an opportunity such as no other man had, save his confessor, of learning and studying him; and as a result of the impressions which daily intercourse of either a social or business nature made upon the writer's mind, he hesitates not to say, that old whited-headed John McLaughlin, when compared with other persons who have figured in the early history of Oregon, is in sublimity of character, a Mount Hood towering above the foot hills into the regions of eternal snow and sunshine.

It will at once be seen that Dr. McLaughlin's position during all the years of the pendency of the boundary question, and especially at the time of the first attempt to organize a Provisional government, was one beset with very great difficulties. And it is quite certain that a man of less force of character and less real benevolence, and that strength of principle which does not pause in the path of duty to look back over the shoulder to count how many are following after, would have failed to preserve peace in Oregon among the people of the two nationalities. In short, he kept in check one class of the population which might well oppose the organization of the proposed government.

The mountain men were from long habits, hostile to the Hudson's Bay Company, inculcated and strengthened in the mountains by the American Fur

Company, during the long years of the rivalry of these Companies. This feeling also was a serious embarrassment in the efforts made to induce a majority of the people in Oregon to organizing a Provisional Government. Nor less formidable were the difficulties in securing such a result, were those which sprung out of the different grades in society, which we have had occasion to notice.

Dr. McLaughlin's personal interests and the interests of the Hudson's Bay Company, he represented, would at once suggest opposition to the organization of the Provisional Government. And the Methodist Mission as such was regarded by the American agricultural population, as not being certainly on the side of those who insisted upon the contemplated measure as one essential to the security of the lives and property of all the various classes, including those noticed as being likely to arrange themselves in formidable opposition.

An event, however, occurred on the 15th of February, 1841, which in a very marked manner once more called the attention of the American inhabitants of the Wallamet valley to the importance and even necessity for establishing some regular form of civil government. On that day, Ewing Young, an American citizen of considerable wealth, having died without heirs, became an historical character. Mr. Young had made the acquaintance of Hall J. Kelly, A. M., of Three Rivers, Massachusetts, who having as far back as 1817, been impressed with the importance of forming American settlements in Oregon, had through long weary years, given to the subject the energies of a cultivated mind, and the resources of a fortune by no means small at the first. Mr. Kelly was at the time of becoming acquainted with Mr. Young, on his way to Oregon with a view to exploration; and he had little difficulty in persuading his new found acquaintance, as also several others, to accompany him. The party arrived at Vancouver, October 15th, 1834. Mr. Kelly's health having failed, he left Oregon in March, 1835. But Mr. Young and others, whom Mr. Kelly induced to accompany him to Oregon, permanently settled in the country.

Mr. Young having died on the 15th of February, 1841, was buried on the 17th, on which occasion, most of the settlers were present. After the appropriate ceremonies of the funeral had been observed, the adult male inhabitants present, were organized as a meeting of the people, for the purpose of discussing the general subject of civil government, a new reason for which was seen by all in the condition in which the estate of the deceased had been left. The settlers were united in opinion that some laws should be adopted for the settlement of estates. And notwithstanding the doubt in the minds of some with respect to the side of the question upon which the Missionaries would array themselves on a trial of strength, we find that Rev. Jason Lee was chosen Chairman, and Rev. Gustavus Hines, was chosen Secretary "At a meeting of some of the inhabitants

of the Wallamet valley, for consultation concerning the steps necessary to be taken for the formation of laws, and the election of officers to execute the same, and for the better preservation of peace and good order." At this meeting, Geo. W. Le Breton was added to the Committee of Arrangements, chosen at a previous meeting of the same month. A committee of seven was likewise recommended to be chosen to draft a Constitution and Code of Laws for the government of the settlements south of the Columbia river; and a resolution was passed, that all settlers north of that river not in any manner connected with the Hudson's Bay Company, be admitted to the protection of the laws of the proposed government, on making application.

The meeting then proceeded to advise the committee to propose the creation of the following officers: A Governor; a Supreme Judge, with probate powers; three Justices of the Peace; three Constables; three Road Commissioners; an Attorney-General; a Clerk of the Courts; a Recorder; a Treasurer; and two Overseers of the Poor.

After the transaction of some other business, which mainly had reference to the filling of the offices, the meeting adjourned to meet at the Methodist Mission, the next day, the 18th.

Short as was the notice, nearly all the settlers were present. Rev. David Leslie was called upon to preside, and Sidney Smith and Gustavus Hines were chosen Secretaries. The proceedings of the previous day were read; when it was

"Resolved, That a committee be chosen to form a Constitution and to draft a Code of Laws, and that the following persons compose that committee: Rev. F. N. Blanchett, Rev. Jason Lee, Rev. Gustavus Hines, Rev. Josiah L. Parrish, Mr. D. Donpriere, Mr. M. Charlevo, Mr. Robert Moore, Mr. E. Lucia and Wm. Johnson."

For some reason which does not appear among any of the written documents, the committee appointed to draft a Constitution and Code of Laws, were finally instructed to frame a constitution without making any provision in it for the election of a Governor. Tradition indeed affirms that the reason for this extraordinary instruction, was found in the fact that it was even then ascertained that no man could get a majority of the votes. The effect of this proceeding was practically to unite in one man, both the Executive and Judicial functions; and for this purpose, Dr. J. L. Babcock seemed to unite the suffrages of the people present. He was a man of honorable ambition; possessing sound practical sense, good principles, and he was highly esteemed by the Missionaries. George W. Le Breton was elected Recorder. He had come to the country with Capt. Couch

on the brig *Maryland*. He had been accustomed to good society, was agreeable in manners, intelligent in conversation, and in religious profession, a Roman Catholic. This last named fact caused him to be elected to conciliate our Catholic brethren. With a view to a like effect upon our English cousins, Wm. Johnson was elected High Sheriff. The kind reader I hope will pardon me for adding that no where among the documents, either printed or in manuscript, nor yet from tradition, have I been able to learn who was elected *Low Sheriff*.

The Constables elected were, Gervais, Zania Ladaroot, Pierre Bellique and William McCarty.

Messrs. Gervais, Cannon, Robert Moore and Rev. L. H. Judson, were chosen Justices of the Peace. It was then

Resolved, That until a code of laws be adopted by this community, Dr. Babcock be instructed to act, according to the laws of the State of New York.

The meeting then adjourned to meet on the first Tuesday in June, at the new building near the Catholic Church.

It is apparent that the people were striving for the attainment of something better than they possessed; and that they were in some sense feeling their way in the dark, for the purpose of getting hold of the means with which to protect themselves from dangers that menaced them.

Rev. Gustavus Hines says in his work on Oregon, "the origin of the attempt to form a kind of Provisional Government, was the removal, by death, of the late Ewing Young, leaving as he did, a large and unsettled estate, with no one to administer upon it, and no law to control its administration. The exigency of this case having been met by the appointment of a Judge with probate powers, who entered immediately upon his duties, and disposed of the estate of Ewing Young, to the entire satisfaction of the community, and the fact that some of the most influential citizens of the country, and especially some of the Legislative Committee, were adverse to the establishing of a permanent organization so long as the peace and harmony of the community could be preserved without it, the subject was permitted to die away, and the Committee for drafting a Constitution and Code of Laws, did not meet according to their instructions, nor did the meeting at which they were expected to report ever take place." And yet the Archives of the Provisional Government, shows that on Tuesday, June 1st, 1841, the people did meet at the place to which the former meeting had adjourned. Rev. David Leslie presided at the meeting, and Sidney Smith and Gustavus Hines, were Secretaries.

The proceedings of the meeting of Feb. 18th, being read, the report of the Committee for drafting a Constitution and Code of Laws, was called for, when

its Chairman responded by saying that he had not called the committee together.

Rev. F. N. Blanchett having at his own request, been excused from serving on that committee, Dr. Baily was appointed in his place, and at the same time, instructions were given to the committee to meet on the first Monday in August, and to have their report ready by the first Tuesday in October. The committee was also instructed to confer with Commodore Wilkes of the American exploring expedition, and with Dr. John McLaughlin, Chief Factor of the Hudson's Bay Company, upon the subject of the expediency of establishing a Constitution and Code of Laws. The Committee to draft a Constitution and Code of Laws was then instructed to report at the next meeting. The meeting then adjourned to meet at the American Mission house at 11 o'clock, on the first Tuesday in October.

I have explored all the known and even suspected sources of authorities for information for the purpose of learning whether this meeting proposed for October was held. Even tradition furnishes no evidence of its having been held, and the inference therefore is, that it was not. And this is rendered nearly certain by the fact that the committee appointed to confer with Commodore Wilkes and Dr. John McLaughlin, abandoned all further ideas of organizing a civil government for the time being, because in a conference with these gentlemen, they were found to be decidedly opposed to the scheme, and they recommended that the subject be allowed to rest, it being inexpedient at that time, in their judgment, to proceed with the contemplated organization, believing as they did, that the moral sense of right and wrong by which the people had hitherto been held together as a community, was sufficient for all the legitimate ends of government among a people, who were so few in number and so simple in manners.

The real cause, however, for arriving at such an opinion so different from that entertained by a large majority of such of the citizens as were not connected to the Methodist Mission, nor yet with the Hudson's Bay Company, did not perhaps, arise so much from the conviction that a civil government was quite unnecessary, as from a sense of an inability on the part of the governed, to defray the expenses of even the most simple government. The people were few in number, greatly reduced in their pecuniary circumstances, occupying portions of the country remote from each other; they were engaged in felling forests, cultivating fields, and in other ways giving their utmost attention to supplying their most pressing wants. They were, also, without law books, excepting one copy of the Iowa Statutes, to which to refer for assistance in framing laws, and they had not a press on which to print them when enacted.

But the American agricultural settlers were greatly disappointed, because of

the result thus reached; and they were even sufficiently ill natured to attribute the decision of Commodore Wilkes to the fact that the taste of Dr. McLaughlin's wine, and his very courteous treatment of the officers of the American squadron, controlled the decision. It was not difficult to see what moulded Dr. McLaughlin's opinions as the representative of the Hudson's Bay Company, which then had the absolute control of the country, and it was desirable to continue to keep and control it to the end, which they were sharp sighted enough to see would very soon be arrived at through the natural results of events, which would certainly follow the organization of civil government.

When the Pilgrim fathers of the *Mayflower* landed on the bleak and inhospitable coast of New England, and established "a State without a king, and a church without a bishop," they were thoroughly imbued with the idea of the great importance of laying deep and broad foundations upon which to build up the educational institutions of the country. And while they were moulding government into the form best adapted to secure the civil and political liberty of the citizens, they with a wise forecast to the interests of the generations of the future, laid the foundation of an institution of learning, possessing the power of so expanding as to meet the ever growing wants of the people. And the result, is now seen in the fact that Harvard University is among the best in either Europe or America; and it has a law school, which has no rival in either hemisphere.

So with like intent, and with no less wisdom and forecast, did the early Methodist Missionaries, even while seeking to establish the institutions of Christianity and civil government, labor to lay the foundation of an educational institution, so organized that it would expand as the wants of the people increased. Accordingly it will be seen that on the 17th January, 1842, the people assembled at Chemeketa, now North Salem, under a call of Rev. Jason Lee, for the purpose of consultation upon the subject of English education in Oregon, and to prepare the way for the speedy establishment of a literary institution capable of meeting the wants of a growing community.

Little was done at this meeting save the appointing of a committee to prepare business for a meeting, which was afterwards called to assemble at the Old Mission on the 1st of February, 1842, in a house erected by Jason Lee in 1834, at a place about half a mile above the present little town of Wheatland, on the eastern bank of the Wallamet river near a place known in past year as Garrison's landing. The decayed remnants of the building itself, as also the ground upon which it stood, have all been carried away to the deep blue sea by the ceaseless action of the waters of the Wallamet.

The following gentlemen were elected to constitute the first Board of Trustees of the Oregon Institute :

Rev. Jason Lee, Rev. David Leslie, Rev. G. Hines, Rev. J. L. Parrish, Rev. L. H. Judson, Hon. George Abernethy, Mr. Alanson Beers, Mr. H. Campbell and Dr. I. L. Babcock.

A committee on location was appointed, who reported in favor of a place in the upper end of the French prairie. But the locality named being deficient in pure water, the Institute was finally located on what was then known as the Wallace prairie, two and a half miles below the present city of Salem, on a tract of land now owned by Asahel Bush, Esq.

The constitution adopted by the Board on the 15th March, 1842, provided that the school should always be under the supervision of some Christian church that should first pledge itself to patronise and sustain the institution. The people generally looked to the Methodist Episcopal Church to foster and control it. With that in view, a meeting was held at the house of Rev. G. Hines, known as the Old Parsonage, situated where the oil mill of the Messrs. Holman now stands, in Salem, in which Rev. Jason Lee was instructed to call a meeting of the Methodist Episcopal Church in Oregon, both ministers and laymen, to take into consideration the subject.

On the 26th Oct. 1842, at a meeting held at the Old Parsonage, it was resolved by the ministers and laymen present, as a branch of the M. E. Church in the United States, to take the Oregon Institute under their care, and they pledged themselves to make every reasonable effort to sustain it. How well they kept their word, their subsequent actions and self-denying sacrifices of money and and property afford abundant proof.

The efforts hitherto made to organize such a Provisional Government as would be such in fact, to the extent of providing for all existing exigencies of the country were regarded as a failure, the responsibility for which some were disposed to cast upon the Hudson's Bay Company, while others attributed it to the combined influence of this Company, and that of the Roman Catholic and Methodist Mission. But the fact was far otherwise, and whatever failure there was, resulted from a variety of concurring causes, a further notice of which is not compatible with the necessary brevity of this sketch.

The wild beasts of prey had become a very serious evil, because of their great destruction of domestic animals. A number of persons who had held a consultation at the house of Wm. H. Gray, to consider the expediency of organizing a Provisional Government, and who had, or at least supposed they had carefully reflected upon the various retarding influences, thought they saw in the fact

mentioned in the beginning of this paragraph, an object of sufficient interest to all, to collect a large number of settlers who would probably adopt some line of harmonious action. With this in view, a meeting was held in accordance with a previous notice, at the Oregon Institute, February 2d, 1843, at which Dr. J. L. Babcock, presided, in order to take into consideration the propriety of adopting some measures for the protection of the herds. A committee of six was appointed to notify a general meeting, and report business. And finally it was determined that the proposed meeting should be held at the house of Mr. Joseph Gervais, on the first Monday in March, 1843, at 10 o'clock, A. M.

But before passing from the subject of the "*Wolf Meeting*," as the meeting of February 2d, 1843, came to be designated, the reader ought to be reminded that Dr. Babcock, while discarding the idea of any efforts, having for their object the organizing of something better as a government than anything previously attempted, because he believed that the people had all the protection necessary in the arrangements already entered into, believed that the object of the "*Wolf Meeting*," was a good one; all being interested in it, because all had lost more or less from the ravages of wild beasts, which made it necessary to make a united effort to destroy them.

On the committee of six appointed at the "*Wolf Meeting*" of February 2d was a French Rocky Mountain hunter, as also two Canadian French settlers, a Mr. Gervais and a Mr. Lucia, both of whom had come to this country with Wilson G. Hunt's party. These three men were capable of wielding a large influence over that class of population with which they naturally stood in close relationship, and that influence it was known they would exert on the side of American enterprise and a Provisional Government, and upon these three, was devolved the duty of giving the notices for a second "*Wolf Meeting*," at the house of Mr. Gervais on the first Monday in March, 1843. A Mr. Le Breton and a Mr. Smith, took upon themselves the duty of quietly learning in advance of the second meeting, who could be relied upon as supporters of the real object, which was a Provisional Government, that should be such in fact as well as in name. In short, the purpose named in the notices, was but a feint skilfully designed to cover up the real purpose. The design indicated on the face of the notices, was certainly a very laudable one, which was sure to be approved by the principal stock owners then known to be the Missionaries and the Hudson's Bay Company. These were believed not to approve of the organization of a Provisional Government, but the extirpation of wild animals was an object to which they gave an encouraging word and to which they promised to contribute their money.

In the meantime the question of a Provisional Government was discussed before a lyceum at the Wallamet Falls, (now Oregon City,) with great animation

on both sides, and it was finally decided to be inexpedient in the existing condition of the country, to organize such a government. Dr. McLaughlin advocated the establishment of a government quite independent of the two great nations claiming the country, and some of his reasons were specious.

Lansford W. Hastings, Dr. McLaughlin's lawyer, offered a resolution "That it is expedient for the settlers on the coast, to establish an Independent Government." The subject was discussed with considerable animation and the resolution was warmly opposed by Mr. Abernethy and other patriotic Americans; but was finally adopted. To neutralize the effect of this, Mr. Abernethy then offered the following resolution, as the subject for the next week's discussion:

"Resolved, That if the United States extends its jurisdiction over this country within the next four years, it will not be expedient to form an Independent Government."

This was discussed with great zeal at the next meeting, and being finally adopted, quite neutralized the pernicious influence of the first resolution.

Dr. White would very fully and cordially support any measure or system of measures looking towards the establishment of an Independent Government, *provided the people would elect him Governor*, and this he thought they ought to do—and in fact, did not doubt that they would do it, because, being already Sub-Indian Agent by the appointment of the President of the United States, he could officiate as Governor, and it would impose no additional expense upon the settlers. The Dr. waxed both warm and eloquent as he presented this view of the subject. But the unsophisticated reader may be disposed to enquire how he could act as Sub-Indian Agent of the United States and at the same time be the Executive head of an Independent Government. A clear case of *quien sabe*.

The difficulties and inconveniencies incident to the peculiar condition of the colonists being about this time more sensibly felt, and a large majority of the people realizing that something more efficient than a moral sense was requisite to the suppression of wrong and the maintenance of right, were at length persuaded that those who were active in getting up the proposed "Wolf Meeting" for the first Monday in March, 1843, acted wisely in thus presenting before the people an object upon which all could unite, with the intention of advancing to self preservation in its most general sense, as the real object proposed to be reached by the contemplated meeting.

The public mind being in some sense prepared for a movement in advance of the single object of protecting herds from the depredations of wild beasts, the meeting of the first Monday in March, 1843, at Mr. Gervais's, was one characterized by great personal kindness and harmonious action. James A. O'Neil, who

had come to Oregon with Capt. Wyeth in 1834, was privately informed of what was the *real* object sought to be accomplished by the meeting, and it was intimated to him that he would be called to the chair, in which he was desired to hasten as rapidly as possible over the wild beasts and domestic herds, to the real object which in due time would be brought forward in a resolution. Accordingly Mr. O'Niel (yet living in Polk county I believe), was called to preside.

Everything proceeded satisfactorily; ample provision was made for the protection of domestic herds, and, to the uninitiated, the object of the meeting was attained, and the people ready to disperse and retire to their several homes. But at this juncture, William H. Gray, of Astoria, arose and after alluding to what had been done, said "No one would question for a moment, that this was right. This was just and natural protection for our property, in animals liable to be destroyed by wolves, bears and panthers. How is it, fellow-citizens, with you and me, and our wives and children? Have we any organization on which we can rely for mutual protection? Is there any power or influence in the country sufficient to protect us and all we hold dear from the worse than wild beasts that threaten and occasionally destroy our cattle? Who in our midst is authorized to call us together to protect our own and the lives of our families? True, the alarm may be given, as in a recent case, and we may run who feel alarmed, and shoot off our guns, while our enemy may be robbing our property, ravishing our wives, and burning the houses over our defenseless families. Common sense, prudence and justice to ourselves demand that we act consistent with the principles that we have commenced. We have mutually and unitedly agreed to defend and protect our *cattle and domestic animals*; now fellow-citizens, I submit and move the adoption of the two following resolutions, that we may have protection for our person and lives, as well as our cattle and herds:

Resolved, That a committee be appointed to take into consideration the propriety of taking measures for the civil and military protection of this colony.

Resolved, That said committee consist of twelve persons.

These resolutions were adopted by a unanimous vote; and the persons appointed upon the committee were Drs. Babcock and White, and Messrs. O'Niel, Shortess, Newell, Lucie, Gray, Gervais, Hubbard, M'Roy, Smith and Gay. The meeting then adjourned. Sometime near the middle of March, the committee of twelve met at the Wallamet Falls, Dr. E. White being chosen as temporary Chairman, and G. W. LeBreton was chosen Secretary; nearly all the principal men at the Falls, including Rev. Jason Lee, Rev. A. F. Waller and Messrs. George Abernethy and Robert Mooore, were present by invitation, and they participated in the deliberations; most of them, especially Rev. Jason Lee and

Hon. George Abernethy, going so far as to speak of the contemplated measure as both unnecessary in itself and unwise in the manner proposed. Much diversity of opinion was expressed on the general subject, also on that of an executive head; and not being able to harmonize their opinions on these subjects, it was unanimously resolved by the committee to call a meeting at Champoege, on the 2d of May, 1843, for the purpose of perfecting the proposed organization.

Some one who contrived to keep his name covered, but evidently an enemy to American interests, circulated, soon after the second wolf meeting, a paper for the signatures of the Canadian French population designed to unite them in hostility to any movement having the organization of a Provisional Government for its object. A little attention to the literary style of this document, discloses the fact that the writer had a far more accurate knowledge of both the French and German languages, than he had of strong and terse old English. It is dated March 4th, 1843, and purports to be an "Address of the Canadian citizens of Oregon to the meeting at Champoege." But at that date no meeting had been called for Champoege. This was not done until the Committee of Twelve appointed at the meeting held at Mr. Gervais', met at the Wallamet Falls, about the 10th March.

It is enough to say that prior to the proposed meeting of May 2d, at Champoege, those opposed to organizing a civil government, held one meeting at Vancouver, one at the Wallamet Falls, and two at the Catholic Church, on the French Prairie, in which the general subject was fully discussed, and a system of hostile measures agreed upon. In fact Le Breton, who had some unusual means of knowing how persons were being trained in the four meetings last named, informed the Committee of Twelve that the mass controlled by the author of the address of March 4th, would vote "No," on every measure which might be proposed by Americans. And he suggested that to expose this, and to demoralize and confuse the hostile forces, some measures must be proposed on which the enemies of organization ought to vote "Yes," if they would vote intelligently and consistently.

On the 2d May, 1843, both the friends and enemies of the proposed government met at Champoege. The voters drilled and trained by the Hudson's Bay Company, were promptly on the ground in the open field near a small house, and without any hesitancy voted "No," where they should have voted "Yes" under the tactics suggested by Le Breton, who after there had been considerable skirmishing in force, as if to feel the strength of the enemy, exclaimed—"We can risk it, let us divide and count!" As quick as tongue could utter the words, William H. Gray emphasized the proposition by saying with great animation, "I second the motion." Jo Meek thundered out with an earnestness not less

than that he would manifest in an attack upon a grizzly bear—"Whose for a divide?" and as he stepped quickly and nervously in front of the settlers, he added in a voice that rang clear out as though it was the death knell to anarchy, "All for the report of the committee and organization, will follow me." This move was sudden and quite unexpected at that stage of the proceedings, and it was electrical in its effect. Americans followed the patriotic and large hearted trapper and his Rocky Mountain companions and their allies, and they counted fifty-two, while their adversaries numbered but fifty. Then in the "*Three cheers for our side,*" proposed by Meek, there went up such a shout as Champoege never before heard and never will again. The enemies of the proposed measure, evinced by their downcast looks, that they keenly felt their defeat; and they soon separated from their jubilant adversaries, retiring first into the fence corners, and after while to their horses, which they despondently mounted and finally retreated in a demoralized condition from the scene of their late defeat to ponder on the character of these strange Americans, as they threaded their several ways along the dim and narrow paths that led to their respective little cabins.

One of the principal objects contemplated in the formation of the proposed civil government, was to preserve the peace and to promote the prosperity and happiness of the people, and to maintain the friendly relations which it was felt ought to exist between the citizens of the United States and the subjects of the British Queen.

After those who did not concur in opinion with the majority had withdrawn, the Committee of Twelve, reported. Persons deemed suitable were then chosen to the various offices necessary to keep the machinery of government in a working condition. The Legislative Committee consisted of Messrs. Hill, Shortess, Newell, Beers, Hubbard, Gray, O'Niel, Moore and Daugherty; and they were instructed to make their report at Champoege on the 5th July, (1843). The per diem of the members was fixed at \$1,25, and the session was limited to six days. Each member at once subscribed the amount of his pay. Alanson Beers, Rev. J. L. Parrish and Dr. Babcock at once voluntarily engaged to provide at their own expense for the boarding of the Legislative Committee; and the Methodist Mission made a gratuitous tender of their old granary for a Council Chamber.

There is no evidence derived from any historical document that the settlers gave the Legislative Committee any instructions when or where to meet for the purpose of preparing the matter to be reported on the 5th of July. But the records show that they met at the Wallamet Falls, May 10th, in the building which as we have seen, was offered by the Methodist Mission for this purpose. It was of course a very modest, unpretending structure. It was a frame building, six-

teen feet wide and thirty feet long; one and a half stories high, the upper portion being used as a storage and sleeping apartment, while the lower part was so divided as to make one square room for a school house and church, and the other was used for storing wheat.

I might courteously conduct the reader into this Legislative Hall and introduce him to each of the nine members by making him acquainted with whatever is peculiar or proper in the person and history of each member. But this would not quadrate with the plan of this article, although it would be both interesting and instructive. I will therefore only say that Robert Moore was chosen Chairman, and G. W. LeBreton, Secretary.

The first grave question with which the Legislative Committee had to deal, was that relating to an executive head to any plan of government which might be agreed upon. The absurdity of a government without a Governor was apparent enough to common sense one would think; independent of the experience which the people had already had in their hitherto imperfect organization, this had always been a difficult subject as had been fully shown in all the previous discussions and voting. It was finally agreed, however, to make provisions for an Executive Committee consisting of three persons, who would constitute a Council, capable of acting in an emergency, and this would at the same time afford an opportunity for giving the Methodist Mission a representative in the Executive Council. This was believed to be necessary in order to securing the cordial co-operation and sympathy of the Mission.

The Legislative Committee continued its sittings until the 12th of May, commencing each days proceedings with prayer. On the last day of its difficult labors, a resolution was passed, that when the committee adjourn, it do so to meet on the last Thursday in June. It was then "moved and carried that the house adjourn by uniting in prayer."

On the fifth of July, 1843, the inhabitants met pursuant to adjournment to hear the report of the Legislative Committee, and to do such other business as might come properly before them. Dr. Babcock, chairman of the meeting of May 2nd, being absent, the meeting was called to order by G. W. LeBreton, one of the secretaries of the convention held in May. Rev. Gustavus Hines was elected president of the convention.

The Canadian address of March 4th, 1843, was evidently prepared by one unfriendly to American interests and to the organization of civil government. All the signers of it were present at the meeting of May 2d, and voted against organization. It was never, however, before any public meeting of the settlers. But it was finally placed in the hands of the Committee of Three which the

Legislative Committee appointed to revise and arrange the laws for the meeting of July 5th, 1843. G. W. LeBreton, clerk of the Legislative Committee, handed it to the committee, who examined it and then returned it to their clerk with instructions to file it with the public papers, as it would show the influences operating, and who were opposed to our organization, and the reasons they had for their opposition.

But on the occasion of the meeting of July 5th, the bolder and more independent portion of the French settlers participated in the deliberations and expressed themselves as pleased in prospect of the proposed organization. The greater number, however, not only stood aloof, but declared in advance that they would not submit to the authority of any government that might be established. This they did at the suggestion of the Hudson's Bay Company *and others*. Indeed, the Company had gone so far as to formally state in a communication addressed to the leaders in the new movement, that they felt themselves abundantly able to defend themselves and their political rights.

R. Moore, Esq., Chairman of the Legislative Committee, presented his report which was read by the Secretary, G. W. LeBreton, and accepted.

We have seen that the question of an executive head had been one of great difficulty and interest. On the debate which was had on this subject, Mr. Hines was very marked in his hostility characterizing the triple executive as a *hydra headed monster* in the shape of an Executive Committee which was but a repetition of the Roman Triumvirate—the Cæsars upon the throne.

Rev. Jason Lee could not see the proposed executive head in the light Mr. Hines did. If it was thought necessary to have a government at all, it was necessary to have a head as an executive, or the laws were of no effect.

Dr. Babcock's hostility was very decided, not only because the Legislative Committee had exceeded its authority, but because the proposed executive was not required by existing necessities, and moreover it looked too much like a permanent and independent government, whereas we wished to establish one only temporary. O'Neil and Shortess both spoke in favor of it; and W. H. Gray closed the debate by saying, among other things :

"Mr. President and fellow citizens:—The speech which we have just listened to, from our presiding officer (G. H. Hines) is in the main correct. It is true that the Legislative Committee were not instructed to bring before you an executive department in the laws and government you proposed to form, when you appointed your committee to prepare these laws. It is also true that when that committee met they found that they could not advance one step in accomplishing the work you instructed them to perform, without some supervising influence

some where; in short, without a head. Their instructions being against a governor, they have provided an Executive Committee in place of a single man for governor. The executive head is to act in place of a Senate Council and Governor. This provision is before you for your approval or rejection. With the Executive Committee our organization is complete; without it we have no head; no one to see that our laws are executed, and no one to grant a reprieve or pardon in case a law should be enforced against the life or property of any one for the violation of any law, no matter what the circumstances connected with that real or supposed violation might be.

* * * * *

Now, fellow citizens, let us look calmly at our true situation. We are two thousand five hundred miles from any point from which we can receive the least assistance by land, and seventeen thousand miles by water. A portion of our community are organized and ready to protect themselves, and to defend all their rights and interests. Another organization of a religious character is in our midst—I should say two. They each have a head or executive. How is it with us? Who is our head in all that pertains to our civil liberty, rights and property? It is possible the gentleman may wish us to remain as unprotected, as helpless and exposed to all the dangers that surround us on every hand as we have heretofore been. If he does, you, fellow citizens, I am sure do not wish to add to his feebleness by destroying the organization you have commenced, because he is afraid of what some Cæsar did in Rome. We are acting for ourselves and those immediately dependent upon us for protection. In union there is strength. I believe you are fully satisfied your committee acted honorably, and, as they thought, for the good of all they represented. If such is the case, you will approve of their acts, and our organization will be complete as they have prepared it for this meeting."

On the vote being taken there were but two or three nays; and this being the only question of real difficulty, all others were readily disposed of.

Messrs Beers, Hill and Gale were chosen by ballot as the first Executive Committee. Other officers were elected; the report of the Legislative Committee was adopted as a whole and thus the first American State on the Pacific Coast was ushered into being at Champoeg on the 5th of July, in the year of grace 1843, not with the sound of martial music, the measured tread of armed troops, the roar of cannon or the blaze of bonfires on every hill top, but with the exultant jubulations of hearts as patriotic as ever warmed the bosom of a lover of his country.

Historical justice requires the fact to be noted, that Wm. H. Gray, by his untiring labors, ceaseless vigilance and ready tact, which seemed to render him

equal to any emergency, contributed more than any other man to the result of the measures of July 5th. He was indeed seconded in his efforts looking to the organization of a civil government. But he was the leading spirit, whose fertility of resources were relied upon to combat the open hostility of the Hudson's Bay Company and of the Catholics; and to win over, if possible, to the support of the contemplated measures, the Methodist Missionaries who seemed in no wise inclined to sympathize in what they regarded as extreme views. A very large majority of the Canadian French were opposed to the objects proposed by Mr. Gray and his friends. But in Mr. Matthieu, an intelligent Canadian gentleman of French descent, Mr. Gray always found an efficient co-laborer.

The limits prescribed for this article will not permit me to notice in detail the various provisions of the organic and other laws reported by the Legislative committee to the people at Champoege on the 5th of July, and by the people then confirmed. It is very noticeable, however, that the preamble declares that "We, the people of Oregon Territory, for the purposes of mutual protection, and to secure peace and prosperity among ourselves, agree to adopt the following laws and regulations, until such times as the UNITED STATES OF AMERICA extend their jurisdiction over us." The reader will thus see that this was a move of *Americans* in the interest of *American* institutions.

The first section of the organic law is a sort of *magna charta* of the people, and it was taken from the ordinance of 1787. In the fifth article of this section, it was provided that there should be neither slavery nor involuntary servitude in Oregon, otherwise than for the punishment of persons duly convicted of crimes.

The same sentiment was expressed by the Legislature of the Provisional Government on the 5th of July, 1845, in a resolution offered by Jesse Applegate, in which it was declared:

"That this government can recognize the right of any person to the services of another, only upon *bona fide* contract, made and entered into, and equally binding on both parties."

So, also, the organic law of July 5th prohibits slavery. And it was in deference to the will of the people thus expressed, as well as because of my own convictions on the subject of human rights, that when in Washington City in 1848, representing the people and Provisional Government of Oregon, I incorporated this provision in the act of Congress of August 14th, 1848, when I drafted the bill for the establishment of a Territorial Government in Oregon, and for other purposes.

Section 2 of the organic law of July 5th, 1843, provided that all officers elected on the 2d of the previous May, should continue to perform their appro-

prate functions until the 2d Tuesday in May, 1844, and until the election and qualification of others, to be elected on that day. An Executive Committee of three was established, a Legislative Committee of nine was provided for, and superior and inferior courts were created.

The land law was very peculiar, in the fact that it permitted *any person* to hold 640 acres in a square of oblong form, according to the natural situation of the premises, on condition that within six months from the time of recording the claim, permanent improvements were made upon the same, by building or enclosing, and an actual occupancy of the same within one year from the time of designating the same by metes and bounds in the recorded description and notice of claim.

And the 4th article enacted that "No person shall be entitled to hold such a claim upon city or town sites, extensive water privileges, or other situation necessary for the transaction of mercantile or manufacturing operations; *Provided*, that nothing in these laws shall be construed as to affect any claim of any mission of a religious character made prior to this time, of extent not more than six miles square."

The following is a copy of the certificate under which the Executive Committee held office, exact even as to the orthography of "Wallamet:":

This certifies that David Hill, Alanson Beers, and Joseph Gale, were chosen the Executive Committee of the Territory of Oregon, by the people of said Territory, and have taken the oath for the faithful performance of the duties of their offices as required by law.

GEORGE W. LEBRETON,

WALLAMET, Oregon Territory, July 5th, 1843.

Recorder.

It may not be out of place here to observe that both the Pioneer and Historical Society of Oregon, and the Pioneer Association, adhere to the orthography of the name of our river and valley as here indicated in the spelling of "*Wallamet*." The charter of the Wallamet University, framed under the instructions of the early missionaries, follows this orthography.

It may not be quite uninteresting to say that the State House in which all this was done was in several respects different from that in which laws are made at Washington City. The Oregon State House was built with posts set upright, one end in the ground, grooved on two sides, and filled in with poles and split timber, such as would be suitable for fence rails, with plates and poles across the top. Rafters and horizontal poles, instead of iron ribs, held the cedar bark which was used instead of thick copper for roofing. It was twenty by forty feet, and did not therefore cover three acres and a half. At one end

some puncheons were put up for a platform for the President; some poles and slabs were placed around for seats; three planks about one foot wide and twelve feet long, placed upon a sort of stake platform for a table, were all that was believed to be necessary for the use of the Legislative Committee and the clerks. It is due to the people who met to approve or disapprove of the acts of that committee, to say that perfect order and decorum characterized all the proceedings of July 5th, 1843.

The Provisional Government of Oregon was organized and put in operation in July, 1843, previous to the arrival of the large emigration conducted across the plains in the same year by Dr. Whitman, who brought most of the wagons and teams of the emigrants through to the Columbia river. Most of the families thus led across soon found locations, and with the assistance they were able to obtain from the Methodist Mission, and from the brig *Maryland*, commanded by Capt. Couch, and from the bark *Lausanne*, sent by Mr. Cushing of Newburyport, the emigrants soon commenced improvements with a view to permanent, happy homes.

The journey of Dr. Whitman to Washington in the winter of 1842, by which he certainly saved Oregon to the United States, belongs properly to the history of Oregon during the Provisional Government, rather than to the history of that government; and it is now only necessary to say in this connection that from the time it was known Dr. Whitman had safely arrived in Washington, and that the boundary line was not settled, the policy of the Hudson's Bay Company was changed, and advances of outfits were made to such Americans as could be induced to leave the country.

On the 18th of June, 1844, pursuant to the organic law, the members of the Legislative Committee met at the Wallamet Falls, at the house of Mr. Hathaway. The members present were Peter H. Burnet, David Hill, and M. M. McCarver, from Tualatin district.

Absent—Mr. Gilmore.

Daniel Waldo, Thomas D. Kaizer, Robert Newell, from Champoege district. Yamhill district not represented.

M. M. McCarver was chosen Speaker of the House, and Dr. J. E. Long was the Secretary.

The message of the Executive Committee being received, its various portions were referred to appropriate committees, and so much of it as related to a more thorough organization, to vesting the executive power in a single individual, and to the appointment of several Judges, and also those parts of the message

that related to the amendment of the laws of chancery, were referred to the Judiciary Committee.

On the 20th, Mr. Burnett gave notice that he intended to introduce a bill to prevent the introduction of ardent spirits into Oregon. On the next day he asked leave to introduce the bill. On the 22d it was read a second time and ordered to be engrossed, and finally passed on the 24th, and thus became the first prohibitory liquor law on this coast. On the 27th the bill to prevent slavery in Oregon, and for other purposes, was read a third time, and on the question, "Shall the bill pass?" the yeas and nays were demanded, when the vote stood :

Yeas—Messrs. Burnett, Gilmore, Kaizer, Waldo, Newell and Mr. Speaker—6.

Nays—Messrs. Looney and Hill—2.

But the brief journal entries and the final vote fail to show the real character of the bill as it finally became a law. The leading provisions of it, however, were intended to oblige any master of a sea-going vessel bringing a negro into the country to give bond to take him out of it. And it was made the duty of the sheriff to arrest any other negro who might be found in the country, and to inflict upon him forty lashes, repeating the whipping at proper intervals until the unfortunate descendant of Ham should leave the country. In short, the principle of the bill made it a crime for a white man to bring a negro into the country, so that in any case, if he were found in the country, he was thereby guilty of a crime, notwithstanding the prohibition of slavery and so much of the ordinance of 1787 as was incorporated into the organic law of July 5th, 1843.

It is due to the early settlers of Oregon to say that this negro whipping law was so repugnant to all their better feelings and instincts, and so clearly in violation of the provision "That slavery, except for the punishment of crime, whereof the parties shall have been previously convicted, shall never be tolerated," that no officer could ever be induced to enforce it. On the 27th June the House adjourned to the third Monday in December, 1844.

On the last named date, the Legislative Committee met at Oregon City. At the evening session of the next day (December 17th) the Executive Committee, Osborn Russell and Peter H. Stewart, sent in their message. It was a document characterized by a spirit of moderation and sound practical sense. Among other things advised was that provision be made for the framing and adoption of a constitution for Oregon, previous to the next annual election, which might serve as a more thorough guide to her officers and a more firm basis of her laws. And the Executive Committee advised that such changes should be made as would best suit the local situation of the country, and promote the general

interests of the citizens, without in any manner interfering with the real or pretended rights of the United States or of Great Britain, except where the protection of life and property actually required it. And in conclusion of the message, the Executive Committee said :

"As citizens of the United States and as subjects of Great Britain, we should honor and respect the countries which gave us birth; and as citizens of Oregon, we should, by a uniform observance of the rules of justice, equity and republican principles, without party distinction, use our best endeavors to cultivate the kind feelings, not only of our native countries, but of all the powers or States with whom we may have intercourse."

Among other business transacted at this session was the passage of a law providing for holding a convention with a view to some fundamental changes. Under this law, public meetings were held and delegates were elected to meet at Champoege for the purpose of nominating candidates for Governor, Supreme Judge, and Recorder. The candidates for Governor were A. L. Lovejoy, George Abernethy, Osborne Russell and Dr. Bailey. After several ballottings Mr. Lovejoy was declared the nominee of the convention for the office of Governor, to be elected under an organic act which as yet had no actual existence. Mr. Russell's friends were much dissatisfied and even chagrined; and at the June election they united with the friends of Mr. Abernethy, then at the Sandwich Islands, and elected him. This left the Executive Committee as the still recognized head of the government.

On the 24th of June, 1844, the Legislative Committee met at Oregon City, the members elected being H. A. G. Lee, W. H. Gray and Hiram Straight, from Clackamas district; Robert M. Newell, J. M. Garrison, M. G. Foisy and Barter Lee, from Champoege (now Marion); Jesse Applegate, from Yamhill; M. M. McCarver, J. W. Smith and David Hill, from Tualitin (now Washington), and John McClure from Clatsop district.

On motion of Mr. Applegate, the following oath was administered to the members :

"I do solemnly swear that I will support the organic laws of the Provisional Government of Oregon, so far as the said organic laws are consistent with my duties as a citizen of the United States, or a subject of Great Britain, and faithfully demean myself in office, so help me God."

The form of this oath was advocated by Applegate, Newell, Foisy, McCarver, Garrison, Smith and Hendricks, and clearly enough indicates that the American element was a conservative one, and that to secure peace and the ends of good government, the Americans were really willing to form a union with the

English element; but historical justice requires that the fact be stated that many Americans regarded the English, while willing to give the Provisional Government a seeming support, as a source of danger the more menacing because the enemy was inside the citadel.

The first and most important business of the Legislative Committee was the revision of the organic laws, to be submitted for the approval or rejection of the legal voters of Oregon, then (June 24th, 1845,) numbering about eight hundred. Messrs. Lee, Newell, Smith, Applegate and McClure, were appointed a sub-committee, charged with the duty of preparing such an organic law as experience and the changed condition of affairs might suggest as being most calculated to preserve peace and good order, and promote the happiness and prosperity of the people.

On the first day of the session commencing June 24th, 1845, on motion of W. H. Gray, a Committee of Five was appointed to draft a memorial and petition to be forwarded to the Congress of the United States, setting forth the condition, situation and wants of the country. W. H. Gray, Jesse Applegate, H. A. G. Lee, John McClure and J. Hill were appointed said committee.

This and the organic law occupied the greater portion of the time of the session. On the subject of this memorial, it is enough to say that the chairman of the Special Committee was instructed to report the memorial to the House for its adoption, with a request that a Committee of Three be appointed to wait upon the Executive Committee for their signatures, together with that of the Circuit Judge, and that measures be taken to forward one copy to the Senate and House of Representatives of the United States. This memorial was, on the 28th June, 1845, signed by Osborn Russell and Peter G. Stewart, the Executive Committee; J. W. Nesmith, Circuit Judge; Mr. Speaker and all the members of the Legislative Committee, attested by the clerk, and a copy delivered to Dr. E. White to be conveyed to the Congress of the United States.

On the 2nd July, 1845, the Legislative Committee adopted the report of the Special Committee, and on the 5th of the same month, passed an act submitting it to the people, to be voted upon by them at the polls July 26th, 1845, the result of which was reported to the Legislative Committee, which met at Oregon City (previously known as the Wallamet Falls) August 5th, 1845, when it was ascertained that a majority of 203 votes had been given for the organic law, now found in the General Laws of Oregon, page 46.

On the 5th July, 1845, the Legislative Committee adjourned to meet on the 5th of August at Oregon City, under the revised and amended organic law.

The Legislative Committee having met pursuant to adjournment, and the roll

being called, members present were Applegate, Foisy, Garrison, H. A. G. Lee, Barton Lee, Gray, Newell, Hill, Smith, McCarver, McClure and Straight.

Absent—Hendricks.

The clerk being called upon to inform the House of the result of the vote of the people on the organic law, it appeared that a majority of 203 had been cast in favor of the law. This majority was not nearly so large as it would have been but for the fact that many voted against the proposed changes because the Hudson's Bay Company's foreign born followers were allowed to exercise at the polls the same rights which American citizens enjoyed; and because the proposed changes contemplated giving to the Legislative Committee the power to *regulate* the introduction and sale of intoxicating liquors, instead of the power to *prohibit*.

M. M. McCarver, after considerable discussion, was finally declared Speaker under the new organic law, in virtue of his having held the position under the former organization.

The proceedings of a part of the day for August 11th will give the student of our early history some idea of the manner and matter of Legislative proceeding in those somewhat primitive times :

The rules were suspended and the following bills were

Read a second time by title, and referred to Committee of the Whole, for this day; to-wit :

The bill on education and schools;

The bill to establish a Recorder's office;

The bill to establish District Courts; and

The bill to establish Probate Courts.

While the House was thus proceeding under the orders of the day, Mr. Applegate hastily entered the Legislative hall in a manner evincing great excitement and perturbation, and asked that the rules be suspended and that he be allowed to introduce a bill to prevent duelling. No reason was assigned, but the earnest and nervous manner of Mr. Applegate were sufficient to make the reason plain enough, to say nothing of what some of the members seemed to know of what was transpiring on the outside. Under a suspension of the rules the bill was read three times and passed in less than half an hour. On a further motion of the excited member, Mr. P. G. Stewart was appointed special messenger to convey the act to the Governor for his approval and signature, which were at once given.

All this haste in passing a law which thenceforward made it a very grave offense to either give or accept a challenge, was caused by a young man whose name was Holderness having challenged Dr. E. White to fight a duel, because of some either real or imagined insult or injury. Holderness was a man not to be much trifled with, and one who, if he fought at all, would certainly fight for a funeral. Dr. White was greatly pleased with Mr. Applegate's management of this business, and expressed himself as being grateful to him for his skill in thus helping him out of a very unpleasant affair.

The subject of regulating the currency was then, as it ever has been, one of great difficulty. But the good, sound practical common sense of the Representatives enabled them to adopt at this session a system of currency suited to the existing condition of the country. And it was one which became necessary from the known policy of the Hudson's Bay Company to enforce the payment of debts in that which did not exist in quantities sufficient to affect the exchanges of the country, so long as the commercial power continued to be held by that Company. The law provided that in addition to gold and silver, treasury drafts, approved orders on solvent merchants, and good merchantable wheat at the market price, delivered at such place as was customary for the people to receive wheat, should be a lawful tender in payment of taxes and judgments, and for the payment of all debts, *where no special contract had been made to the contrary*. It will thus be seen that in 1845 we had a specific contract law in Oregon, but under circumstances of law and the condition of the country and of the people, which in no wise made it a precedent for a like law in 1864, respecting which the least that is said is best said for the credit of later Oregon legislation.

On the 20th August, 1845, the House of Representatives adjourned *sine die*. There not having been any provision made in the amended organic law for a new election, the old members were again called to meet at the residence of J. E. Long in Oregon City, December 2nd, 1845, agreeably to the provisions of the organic law, it being the first day of the first annual session under that law.

On calling of the roll, found to be present from Champoege district M. G. Foisy, J. M. Garrison, Robert Newell and Barton Lee; from Clackamas district, W. H. Gray and Hiram Straight; from Tuality district, David Hill and M. M. McCarver; and from Clatsop district, Mr. McClure.

There were absent from Yamhill district, Mr. Hendricks and Jesse Applegate; from Tuality, J. M. Smith; and from Clackamas district, H. A. G. Lee.

After the members were sworn in, Messrs. Straight and McClure were appointed a committee to procure a suitable room.

At 2 o'clock, the House organized by electing Robert Newell, of Champoege district, Speaker; J. E. Long, Chief Clerk, and Theophilus Magruder, Sergeant-at-Arms.

The committee appointed to procure a room suitable for the sessions reported that the use of a room had been procured from Theophilus Magruder, at \$2 per day, including fuel and lights.

On the second day, all the members were present except Jesse Applegate, who had resigned. To fill this vacancy, a writ of election was issued by the Governor, but no one appeared to take Mr. Applegate's place.

A copy of Jefferson's Manual having by some happy accident gotten into the Multnomah Circulating Library, it was, on motion of W. H. Gray,

Resolved, That the rules of the House of Representatives of the United States, as contained in that work, be adopted, as far as applicable to the circumstances of the House.

It ought perhaps to be observed that in the earlier legislation of Oregon, under the Provisional Government, the country was divided into *districts*, the legal subdivisions being so designated instead of being called *counties*. The earliest legislation upon this subject being an act passed by the Legislative Committee at its session commenced at Wallamet Falls May 16, and ended June 28, 1843, and approved by the inhabitants in a public meeting assembled at the same place July 8th of the same year. By this Legislative Committee, the whole country was divided into four districts, to-wit: Tuality, Yamhill, Clackamas and Champoege. And it recommended that the districts thus named be designated as Oregon Territory.

On the 24th December, 1844, an act was passed declaring the boundaries of Oregon as being the Pacific ocean on the west, the summit of the Rocky mountains on the east, the 42nd parallel of latitude on the south, and the latitude of 54 degrees and 40 minutes on the north. And the sentiment of the American population of the day, as expressing their opinions, and wishes as well, on the subject of the disputed boundary, was "*Fifty-four forty or fight*."

To this little digression I have been led by what my favorite author on mental philosophy calls the principle of relative suggestion. In referring historically to the early legislation by which Oregon was divided into districts, I was necessarily led to indicating the lines by which these districts as a whole were bounded; and then all the rest having come into my mind on the principle I have alluded to, I am sure the kind reader will pardon the indulgence of this little bit of patriotic vanity and complacency.

Recurring, then, to the subject of districts, I have now only to add that on December 19th, 1845, the Legislature of the Provisional Government passed an act providing for inserting the word "county" in the laws of Oregon, in the place of the word "district."

At this session (commencing December 2nd, 1845, and adjourning on the 19th of the same month,) the subject of post offices and post roads received the attention its importance demanded, and William G. T'Vault was elected Post Master General. The subject of Indian affairs in like manner required and received wise and careful consideration; and to guard the interests of the people and of the aboriginal tribes in their relations to each other, the Governor, George Abernethy, was elected Superintendent of Indian Affairs.

The action of the Provisional Government on the subject of the application of a remedy for the evils arising out of the sale and use of intoxicating liquors, cannot fail to be both interesting and instructive to the Christian student of Oregon history. I would be inexcusable, therefore, if I did not sketch at least the outlines of this important subject, hoping that at some other time the Supreme Being may permit me to fill up these in a manner more satisfactory to myself, and I hope to the kind reader, than this imperfect performance can be.

Peter H. Burnett, now an immensely wealthy banker in San Francisco, framed a law in the summer of 1845 which was lost on the final vote. At this session, W. H. Gray reported a bill from the Committee on Ways and Means, the 2nd section of which provided :

"That if any person shall hereafter sell, barter, give or trade any ardent spirits of any kind whatever, directly or indirectly, to any person within the Territory of Oregon, he shall forfeit and pay the sum of twenty dollars for each and every such sale, trade, barter or gift, to be recovered by indictment in the County Court, or before a Justice of the Peace, without the form of pleading."

The 3d section enacted :

"That if any person shall hereafter establish or carry on any manufactory or distillery of ardent spirits in Oregon, he shall be subject to indictment before the County Court, as for a nuisance, and if convicted, he shall be fined in the sum of one hundred dollars, and the Court shall issue an order to the sheriff directing him to seize and destroy the distilling apparatus."

One half the fines collectible under the law were to go to the witnesses and the party giving information of the offense, while the other half was to be paid to the officer making the arrest. It was also made the duty of any officer, or of any private citizen who might have knowledge of a violation of the law, to prosecute at once.

On the 6th of December, 1845, Mr. Gray's bill passed, Messrs. Gray, H. Lee, Garrison, Hendricks, B. Lee, McClure and McCarver (7) voting in the affirmative; and Messrs. Foisy, Hill, Straight and Newell (4) voting in the negative.

The whisky interest at once became alarmed, and were not long at a loss for the means and appliances necessary to winning Hendricks and Barton Lee to their policy. On the 8th, Barton Lee moved a reconsideration of the vote by which the bill had passed. The yeas and nays being called, the vote resulted as follows:

Yeas—Hendricks, Hill, B. Lee, Smith, Straight and Newell—6.

Nays—Foisy, Gray, Garrison, H. Lee, McCarver and McClure—6.

Thus the motion to reconsider being lost, it was immediately published, in accordance with the provisions of the law, in the *Oregon Spectator* February 5th, 1846, in Oregon City, which was the first newspaper published by the citizens of the United States on the Pacific coast. This law remained in force until December 19th, 1846.

The organic law had provided that the Legislative power might *regulate* the introduction, manufacture or sale of ardent spirits. On this the advocates of the indiscriminate use of ardent spirits built up their most effective enginery of attack; and they insisted that the power to *regulate* did not extend to *prohibition*. The advocates of total abstinence appealed with pride and confidence to our experience as an infant colony excluding the introduction of intoxicating liquors, and they challenged their opponents to point to a new country where as much harmony and peace had prevailed as in this, even at a time when we had absolutely no law, and when, although every man was a law unto himself, yet all things moved on smoothly and without any friction, and when the people were prosperous and happy, as they would certainly continue to be if ardent spirits could be kept out of the country. Our Governor, George Abernethy, was in both principle and practice a thoroughly consistent temperance man, always refusing to touch, taste or handle anything that would in any manner intoxicate. He even manifested an aversion to being brought in contact with drinking men. Such an example by the head of the government was a power of strength to the friends of temperance in a community that had taken a high stand in the cause of temperance by its early efforts to exclude intoxicating liquors from the country, and by which that community had secured peace and prosperity.

Notwithstanding the organic law provided for *regulating* this, at least two-thirds of the people had voted to *prohibit*. And yet the whole liquor influence

of the country was so brought to bear upon the Legislature which assembled in December, 1846, that the prohibitory law of 1845 was repealed and a license law substituted. On the 17th December, 1846, the Governor returned this bill with his veto message. Among other things, he said :

"Previous to our organization as a Provisional Government, public sentiment kept intoxicating liquor from being either manufactured or sold in this Territory. Heretofore every act of the Legislature has been, as far as ardent spirits were concerned, prohibitory in character. The act laying before me is the first that has in any manner attempted to legalize the manufacture and sale of ardent spirits. At the session in June, 1844, an act was passed entitled 'An act to *prevent* the introduction, sale and distillation of ardent spirits in Oregon,' and as far as my knowledge extends, the passage of that act gave satisfaction to the great body of the people. It is said that the Legislature has no right to *prohibit* the introduction or sale of liquor, and this is probably the strongest argument used in defense of your bill. But do you not as effectually prohibit any person who has not the sum of one, two or three hundred dollars, to pay his license, as does the law now on the statute book? Are not your fines and penalties great or greater than those of the old law? My opinion is that the people are opposed to legalizing the introduction and sale of liquor in this land. I may be mistaken, and therefore should be in favor of the old law, or if something similar should not be adopted, of referring the whole matter to the polls at the next general election. It is with regret that I return any bill unsigned, but I feel that we both have duties to perform, and when we think duty points out the way, I trust we may always be found willing to follow it."

On the question being put on the passage of the bill notwithstanding the Governor's veto, the vote stood :

Yeas—Messrs. Boon, Hall, Hembree, Lowndale, Looney, Meek, Summers, Straight, T'Vault, Williams and Mr. Speaker—11.

Nays—Messrs. Chamberlain, McDonald, Newell, Beers and Tolmie—5.

Thus the bill having received a two-thirds' vote, became a law on the 18th day of December, 1846, which is a very memorable day in Oregon history, as being the first on which one man could lawfully sell liquor to another to make him drunk.

The causes which operated to bring about the repeal of the prohibitory law of 1845, and the passage of that of December 18th, 1846, are not to be sought in any supposed objectionable feature of the old law, but in the peculiar organization of the Legislature of December, 1846, a reference to which will show that the Hudson's Bay Company was represented by Messrs. W. F. Tolmie,

Chamberlain, McDonald, Newell and Peers. While the Hudson's Bay Company were yielding a sort of assent to the Provisional Government, and had their representatives in the Legislative branch of it, they were using whatever power the control of an immense amount of capital could give them to dwarf American enterprises and to control American privileges. In consistency with this policy, they were bringing intoxicating liquors in their ships from England, to be used in and about their trade, although their representatives in the Legislature were willing enough to vote against the manufacture and sale here.

The composition of a large majority of the House was peculiarly American, and peculiarly antagonistic to the Hudson's Bay Company. To say then, or even during years afterward, of any American that he was a Hudson's Bay man, tended to ostracise him socially and to kill him politically. Hence the friends of prohibition felt themselves compelled (whatever the facts might otherwise be) to yield the point, on the ground of self defense for national rights, and not from a disposition to consider the law of 1845 either a bad or unwise one. In other words, Messrs. Boon, Looney, Hall, Hembree, Meek, Summers, Straight, TVault, Williams and the Speaker, (A. L. Lovejoy,) were induced to confer the privilege of doing that which was known to be fraught with incalculable evils, because the Hudson's Bay Company, as a monopoly in our midst, were bringing liquor from England and disposing of it in Oregon.

A rapid survey of the facts of the history of the Provisional Government, transpiring in the year 1845, will show that the fundamental law had been very materially changed, and that these changes being ratified by the people, the government become more permanent and dignified in its character, securing at once the respect, confidence and obedience of all classes and conditions, and of nationalities, English, French and American. The boundaries of the country had been extended and clearly defined. The Executive power and efficiency for usefulness had been united in a single head. The Legislative department had been enlarged to sixty-one members, who, when organized, were called a House of Representatives, instead of a Legislative Committee, as formerly. The reader may say that there is not much in a name. But pardon me if I say that there is, after all, very much in a name, since no man could respect himself, or be respected, if so unfortunate as to be known as Ichabod Snooks. The organic law likewise conferred upon the Legislative department the power to create superior and inferior courts, as the wants of the people might require. The land law, although defective in some particulars, was on the whole a good one for the times. The official oath was peculiar in its form, but that peculiarity was a necessity, having its origin in the fact that the population consisted of Americans, English, Canadian French and mixed blood, the fruit of the mar-

riage of hunters and trappers with native women. As residents of Oregon under the treaty for the joint occupancy of the country, the dangers and interests of the people were, in a qualified sense, mutual, while their allegiance was different. Nevertheless, however varied were the feelings of this mixed population in their attachments to the form of the government established in their respective native countries, their acceptance of the Provisional Government was so near being absolutely unanimous, and so thoroughly sustained by all in their confidence in the integrity of those who administered it, that it was strong without either an army or navy, and rich without a treasury. Life, liberty and the pursuit of happiness were guaranteed. Property was safe, schools were established and supported; contracts were enforced; debts were collected, and the majesty of law vindicated in a manner that proved that the government was able and efficient, because the people confided in the patriotism and wisdom of those who founded it, and in the integrity and ability of those who administered it; and of course the people were prosperous and happy; yet certainly not perfectly so, since there were inconveniences arising out of their isolation and other circumstances with which they stood associated, which caused them to long for the advent of a government not liable to be displaced by either of the two great nationalities.

The surprising energy and power which this government was capable of displaying, and the patriotism of the Oregon pioneers, was fully evinced at a much later period, when the massacre of Whitman and family, and others, at his Mission station, November 29th, 1847, roused both government and people to the energetic and successful prosecution of a war commenced in the depth of the winter of 1847-8. Within thirteen days from the time of the information being received at Oregon City, where the Legislature of the Provisional Government was at the time in session, a well armed force of fifty men were, under the advice of Col. J. W. Nesmith, stationed at the Dalles of the Columbia, it being seen by him to be a strategical point of great importance to the successful issue of a campaign against the Cayuse Indians, who had perpetrated the massacre of the memorable 29th of November, 1847. It required, indeed, a military mind to see by a glance at the geographical configuration of the country, that the seizure and holding of this point was of the utmost importance, since it would essentially contribute to the success of an invasion of the Indian country. And it is perhaps no more than what is historically due to the author of the suggestion of this masterly military movement, to say that the people of Oregon have probably never fully appreciated the services thus rendered by this, among the earliest of the Oregon pioneers, and afterwards by him, while Chairman of the Committee on Military Affairs in the United States Senate during

the war for the maintenance of the integrity of the Union, where he proved himself to be one of the most patriotic of those pioneers.

A further evidence of the surprising energy of the Provisional Government, and of its fertility in resources upon the sudden arising of an emergency, will be seen when the reader is informed that the troops sent to the Dalles were raised, armed, and equipped within thirteen days from the time of the massacre at Wa-il-at-pu becoming known to the Governor and Legislature of the Provisional Government; and that they were within the time named, moved also one hundred and fifty miles to the point to be occupied, without the facilities which would now be afforded by railroads and steamboats. But in addition to the raising of this company, the Governor was authorized to organize a force of five hundred mounted volunteers. As fast as the men who came forward to be enrolled could be armed and equipped, they were moved to the front.

On the 27th of February, 1848, the pioneer troops met the enemy at the canyon of the De Schutes, where the first battle was fought, and the enemy driven with considerable loss. On the next day, the Indians were again encountered and defeated. On the 2d of March, the enemy were once more met and severely punished at the Umatilla. On the 4th of the same month, the advance column occupied Wa-il-at-pu three hundred miles distant from the cabins which these hardy, honest, and patriotic pioneers had left behind them, to chastise the savages by a steady advance into their country and by sharp and decisive fighting, for their brutal massacre of Christian missionaries.

It will thus at once be seen that the Provisional Government had both energy and power; and that the Oregon pioneers were fully equal to the occasion; and that they were brave and patriotic men exercising the superior virtues of a superior and noble manhood. In short, when the story of this war and of its results, ending finally in the capture of the principal savages engaged in the massacre, and their trial and execution at Oregon City, shall hereafter be written by the Muse of history it will make a chapter of which no descendant of an Oregon pioneer will be ashamed.

But the train of causes which led to the terrible slaughter of Dr. Whitman and wife, together with others at the Wa-il-at-pu Mission Station on the 29th day of November, 1847, and the incidents of the war of which the massacre was the cause, belong rather to the general history of Oregon during the Provisional Government than to the history of the Provisional Government itself, which is the subject of this paper. And although few things could give me more pure pleasure than to be the chronicler of the thrilling incidents and the soul-stirring stories of which those brave and unselfish pioneers were the heroes who established an American State on the Pacific Coast, giving abundant evidence of the

wisdom displayed in its civil organization and now exhibited no less proof of its ability for military purposes, yet at this time I must deny myself the happiness this would give to me, and I will console myself with the hope that a benign Providence will, with prolonged life and suitable opportunities, yet permit me to engage in a labor that would be so grateful to my feelings.

The remainder of this paper will therefore be devoted to a notice of only such historical events as more or less nearly relate to a change from a Provisional to a Territorial Government; and if I shall use the personal pronoun in the first person more frequently than may seem to be quite consistent with good taste and becoming modesty, I trust that the indulgent reader will not attribute it to any foolish vanity or mere spirit of egotism, but rather to the fact that the remaining events appropriate to this paper, are of such a character that I can in no wise separate my name from them without making the story incomplete and even unintelligible.

In the spring of 1847, Dr. Whitman being at my residence in Oregon City, spoke to me very freely on the subject of his Mission station, and of the perils to which he feared all connected with it were exposed. And he said that he believed that nothing short of the speedy establishment of a Territorial Government to supercede the Provisional Government would save him and his Mission from falling under the murderous hands of the savages. And he urged me to yield to the solicitations I had received to go at once to Washington City on behalf of the people and Provisional Government for this and for other purposes. I had sought to induce Peter H. Burnet to go, being myself averse to doing so. But this interview decided me; and when Dr. Whitman was about to depart for his field of mission labor I promised that I would do as he desired, if Governor Abernethy would furnish me with the necessary letter to the President of the United States.

I have said that my object in going to Washington was to procure the passage of a law for organizing a Territorial Government and for other purposes. Among these *other purposes* I may mention:

1. A line of stockade posts between Independence, Missouri, and Western Oregon, for the protection of emigrants, for facilitating the transportation of mails, and for the establishment of new settlements.
2. Engineers to survey and establish the best wagon route into Oregon.
3. Appropriations for opening and grading a road across the Cascade Mountains.
4. A line of steam packets from Panama, Monterey, San Francisco, and the Columbia river.

5. Appropriations for the mouth of the Columbia river, for a fixed light on Cape Hancock, a revolving light on Point Adams, buoys, a steam tow boat.

6. Fortification of Cape Hancock, Point Adams and a battery at Tongue Point.

7. Light at New Dungeness.

8. Grants of land to immigrants.

9. Grants of land for educational purposes.

10. A geological survey of the country.

11. Purchase of Indian title.

12. Survey of a road to California for stockade posts on it.

13. Indian agencies or sub-agencies at Soda Springs, Walla Walla, the Dalles, the Wallamet Valley, Puget Sound and Rogue River.

14. A military and naval depot in Oregon.

15. A recognition of all our legislative and judicial acts.

16. A recognition of our land titles valid under the Oregon law of July 5th, 1845.

17. Should this be found to be impracticable, then the next best grant embodied in a new Donation Law.

18. An appropriation for the payment of the public debt of the Provisional Government of Oregon.

19. Mail facilities.

20. Troops for protection.

21. A revenue cutter.

22. A law for a Territorial Government.

23. A Territorial Library.

On Monday, Oct. 18th, 1847, I proceeded to Green Point, the residence of His Excellency George Abernethy, the Governor of the Provisional Government, and after resigning my office of Judge of the Supreme Court, I received his letter to the President of the United States. I then embarked with Capt. Roland Gelston, in his gig, and in a short time my very humble but pleasant home was lost to my sight, and nothing of it was left to me but the memories clustering about it as being my first Oregon home. The regular plash of the oars as we glided down the beautiful Wallamet seemed much in harmony with my emotions which I am almost ashamed to confess oppressed me with sadness

while the responsibilities I had taken upon me weighed heavily upon my heart. The future was all uncertain. My mission to Washington was itself an experiment I had scarce the courage to make. There were no steamships then on the western coast of America north of Panama. Suppose that Capt. Gelston, after getting beyond San Francisco, then a little dirty village, should change his destination and not take me on to Panama, according to his contract, how would I be able to proceed? Even if I succeeded in getting forward without any detention of this character, would I be able to obtain a guide to conduct me over the Isthmus to Chagres; and how long would I be detained in that most unhealthy of all known places—that charnel house of death—before I would be able to obtain a passage on board some transient vessel bound for Havana or for some port on the coast of the United States? All these difficulties being either avoided or overcome, would the government of the United States condescend to give any heed to the suggestions and counsel of so humble a representative of an obscure little colony and its Provisional Government?

But deeply interested in the permanent welfare of the colony and thoroughly honest and disinterested in the motives which impelled me to action in consenting to go to Washington, it was quite natural for me to believe that when Congress were made acquainted with the embarrassing circumstances in which their fellow-citizens of Oregon were situated, although they had done nothing for them up to the time of which I am speaking, yet the government would not, nay, it could not, be guilty of the monstrous injustice of permitting an omission to extend to them the protection of the laws of their native country to disfigure another page of its history. Congress had hitherto permitted this unhappy omission because of the impossibility of their knowing the real condition and wants of their brothers of this distant and isolated portion of our common country, and because of slavery becoming an element of the question, as to whether the General Government would proceed at once to the discharge of its most solemn duty, to throw over all its citizens theegis of its laws.

I was also encouraged to hope for prompt and efficient action upon the subject of the main object of my mission from a consideration of the additional fact that the treaty of June 15th, 1846, settling the question of title to Oregon had removed every obstacle which could be referred to as a reason for not granting to the colonists of Oregon the protection of the laws of their country and the means of defense against the Indian tribes. So, too, I felt that it would ill comport with the character of a great nation to urge that protection could not be *afforded* to a people whose duty and allegiance had been tested by almost every variety of circumstances. I could not persuade myself that it would be said, that because the people of Oregon had done well in establishing a government,

in the administration of which internal order had been maintained to an extent equal to that of any State of the Union, that therefore they might be neglected, and exposed to the brutal outrages of ruthless savages, upon their borders and in their midst. This I could not but believe would be making their well doing a misfortune, by causing a withholding of their rights. The continued expectation that the Provisional Government would be superseded, prevented them from doing, for themselves what the exigencies of their situation demanded, and that which they would otherwise have done. They were therefore weary, as I personally knew, of a *quasi* independence, and would have rejoiced to have yielded it up for something that might not be changed by the arrival of the next ship that entered the mouth of the Columbia.

Had the citizens of the United States and the subjects of her British Majesty, who resided in Oregon under the treaty of joint occupancy, by cherishing for each other a feeling of positive hostility and rancorous enmity, become embroiled in an unnatural strife, instead of cultivating a spirit tending to preserve the peace of the country, I saw that the laws and jurisdiction of the United States would have been extended over us long before the time at which these thoughts filled my mind. This, too, I could not but believe would have been done, also, if the country, instead of presenting an example of industry and tranquility wholly unexampled in the history of new colonies, had exhibited a scene of anarchy, confusion and bloodshed, unworthy of their origin and of the destiny of their beloved Oregon. But how much better was it to extend the laws over a people already in the enjoyment of many of the blessings of a peaceful and well ordered State, than to be under the necessity of interposing authority as a shield to prevent them from staining their hands in fraternal blood.

Although the people of Oregon felt an unconquerable desire for self government—a desire nurtured and educated under the republican institutions of the land of their birth—yet their position was so peculiar that they realized the impossibility, under their circumstances, of making full provision for their protection in a manner at all satisfactory to themselves; and they therefore husbanded their resources under a temporary government, cherishing a hope which they believed to be reasonable, that as soon as a suitable opportunity presented itself, a law would be passed establishing a Territorial Government. The settlement of the boundary question seemed to present that opportunity for the fulfillment of their most ardent hopes, and the consummation of their most devout wishes. The extension of the laws of the United States over the people, was an event looked to as promising a remedy for evils growing out of the fact that there were many important subjects upon which the Provisional Legislature

had not, under the circumstances, the power to legislate. It was an event looked for, also, as one that would give additional importance to the country, and a new impulse to trade and commerce, and one which would satisfy the mind on the subject of a grant of land to settlers.

That this anxiety was both reasonable and natural, would appear by advertising to the peculiarly interesting history of the country. During several years without any government except that which reason imposes, and without a law of any kind except the general law of duty arising out of the relations which exist between men everywhere, the penalties for the violation of which were inflicted by the conscience only, the people peacefully pursued their occupations during six days of the week, and on the seventh quietly assembled to listen to the preaching of some one of the missionaries. But time brought changes, and in these changes originated the absolute necessity for that Provisional Government under which had grown up a prosperous and virtuous community, mature in its development and strong in the confidence of the peoples' ability to achieve success in all legitimate enterprises.

It was thus as our little boat rapidly glided down the beautiful Wallamet to the vessel about two miles below Portland, waiting only for our arrival, that I surveyed the history of Oregon's past and considered her existing circumstances, that my heart might be strengthened with courage and hope as to the results of my proposed labors at Washington.

On board the *Whitton*, I was conveyed first to San Francisco, and thence to the southern extremity of the peninsula of Lower California, where Capt. Gelston informed me that he had determined upon engaging in the trade with Mazatlan, on the western coast of Mexico, and that he therefore could take me no further. The United States sloop of war *Portsmouth*, Capt. Montgomery, was lying at anchor in the open roadstead off the point, and hearing of my dilemma, he sent Lieutenant Bartlet to the *Whitton* with a message to me, inviting me on board the *Portsmouth*, and requesting me to bring with me any papers showing my relations to the Provisional Government of Oregon, and the nature and objects of my mission to Washington. This I did, of course, and the interview ended by his offering to give up his cabin to my exclusive use, and to convey me as a guest to Boston harbor. It required about three weeks to get the ship ready. But this being done, we sailed for Boston, and the ship being one of the best in the United States navy, we cast anchor in the port of our destination on the 2nd of May, 1848.

I proceeded at once to Washington, where, soon after my arrival, President Polk, Mr. Benton and Mr. Douglas suggested to me the propriety of my preparing a memorial to Congress, setting forth the condition and wants of the

people I was representing. In pursuance of their advice, I at once prepared a memorial; and among the most prominent subjects to which I solicited attention, was the necessity for a Territorial Government, and for grants of land to encourage settlement. The memorial was presented by Mr. Benton in the Senate, and being, on his motion, printed for the use of both Houses of Congress, it greatly helped me forward on my way to the general objects of my mission.

Soon afterwards, I prepared a bill for organizing a Territorial Government; and I so framed it that it amounted to a practical recognition of the Provisional Government, and of the land law under it. This I did in the wording of the 17th section of the Act of Congress of August 14th, 1848. Among other things important to be noticed, having this in view, is the following:

*"All land recognizances, and obligations of every kind whatsoever, valid under the existing laws, within the limits of said Territory, shall be valid under this act; * * * * * and all penalties, forfeitures, actions, and causes of action, may be recovered under this act in like manner as they would have been under the laws in force within the limits comprising said Territory at the time this act shall go into operation."*

This provision was designed to afford the means for enforcing all previous sales and contracts to sell real estate, and particularly real estate in towns.

The reasons for this provision will at once be obvious to the reader, when he is informed that under the organic law of Oregon and the enactments of the Provisional Legislature, contracts had been made, marriages had been entered into, divorces had been granted by both the Legislature and the courts; judgments had been rendered in courts of law, and decrees had been rendered in chancery, some of which had already been satisfied; and actions and suits were still pending in the courts.

In order, therefore, that inextricable confusion and remediless wrong might not result from the Provisional Government being superseded by a Territorial Government, I so drafted the bill that provision should be made for all suits, process and proceedings, civil and criminal, at law and in equity, and all indictments and informations which might be pending and undetermined in the courts established by the Provisional Government, when the act should take effect, being transferred to be heard, tried, prosecuted and determined in the district courts to be established by the bill, which might include the counties where any such proceedings might be pending; and for all contracts, bonds, recognizances, and obligations of every kind whatsoever, valid under the existing laws within the limits of the Territory, being in like manner valid under the act which I sought to have passed for organizing a Territorial Government;

and for all crimes and misdemeanors against the laws in force within Oregon being prosecuted, tried and punished, in the courts which might be established by said act; and for all penalties, forfeitures, actions and causes of action, being recovered under said act, in like manner as they would have been under the laws in force within the limits of said Territory at the time the said act should go into operation. These provisions were contained in the 17th section of the proposed law.

In the bill for organizing a Territorial Government, I had incorporated a provision prohibiting slavery in Oregon. This I took from the ordinance of 1787, and I was induced to make it a part of the bill, not only because of my own convictions on the subject of human rights, but also for the reason that the people of Oregon had, under the Provisional Government, sternly pronounced a rigid interdiction of slavery. I believed that the bill would become a law; but because the opposition from southern members on account of the prohibition of slavery might delay its passage until it would be too late to come to a final vote on the land bill, which I drafted and caused to be introduced, I incorporated in the Territorial bill the provisions I have referred to as being contained in the 17th section, designed in general terms as a practical recognition of the Provisional Government, and of the land law under it, but it was especially designed to legalize all contracts for the sale of town property in every part of Oregon.

In a government like ours, resting upon the suffrages of the great body of the people, who, not only in semblance but in reality, have the care of their political institutions, the general diffusion of knowledge is necessary, in order that they may exercise their rights in a manner the most conducive to the prosperity of the nation, the perpetuity of its laws, and the purity of its legislative and judicial tribunals. The education and mental training of the youth of the country is absolutely necessary, to qualify them for the care of our political institutions, and that they may possess the ability to exercise the powers of government in a manner the most conducive to their civil and religious liberties. All history shows that where the people have not been educated, they have always been the dupes of political demagogues, who were selfish rather than sagacious, and who learned to ruin by hollow pretenses and professions of patriotism. Believing that the generous and ennobling sentiments, to which his own breast is a stranger, are a worthless and wicked pretense in others, the demagogue justifies himself in caressing an uneducated and deluded people he means to scourge as soon as they transfer their power to him.

If an uneducated people do not fall into the hands of demagogues, yet they are sure, in time, to become the victims of the rapacity, avarice, and that thirst

for power which characterizes another class, who are even yet more dangerous, because they worship cunning, betray with a kiss, counterfeit wisdom, and so adroitly work upon the weakness, ignorance and prejudices of their victims, that they at length obtain place, as slimy reptiles are sometimes known, by a slow and laborious process, to arrive at the top of pyramids.

But these political evils and errors can be prevented, by training the youth of the country in proper studies, and by animating them with a love of country and of virtue, and by the habitual contemplation of the character and example of distinguished American statesman and warriors. Enlightened and instructed, they may set at nought the wicked designs of the hypocrite, who flatters and caresses those he means to sell as soon as he discovers that they are sufficiently debased to submit quietly and without rebuke to the wrong. But if properly educated, the people will be able to sustain the institutions of the country, not only against their own temporary excesses, but when their rulers contemplate wicked enterprises, and would cast down the ark of their country's liberty, they can, without presumption, extend their hands to stay it up.

Entertaining sentiments and opinions such as these, I felt a vehement desire to so multiply, in Oregon, the springs of knowledge that pure streams might thence flow out to water all the land, and to gladden unborn generations thirsting for literary and scientific knowledge. To this end, I framed the 20th section of the Act of Congress of August 14th, 1848, which enacts:

"That when the lands in the said Territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same is hereby, reserved for the purpose of being applied to schools in said Territory, and in the States and Territories to be erected out of the same."

The consideration which influenced my judgment and determined me to make the 17th section a part of the bill for organizing a Territorial Government, decided me to make this 20th section a part of the same bill, rather than to make it a part of the land bill, to which both sections more appropriately belonged.

Soon after the bill for a Territorial Government was introduced, I prepared a bill for making donations of land to settlers. There was at no time much opposition to the land bill, and what there was, I soon succeeded in overcoming by a few explanations and a reasonable amount of labor well directed by the suggestions of common sense. But the land bill could not be gotten beyond a second reading, because the bill for the Territorial Government must necessarily pass first; and the opposition to this finally drove its enemies under the lead of

Mr. Calhoun, of South Carolina, and of Jefferson Davis, of Mississippi, to resort to all known legislative tactics which were supposed to be in any manner conducive to the end at which those gentlemen sought to arrive. For this purpose they labored to consume time in offering amendments, by debating, etc., so that the bill should never reach a vote on its final passage until the 14th of August, M., the hour fixed upon by a joint resolution of Congress for the close of that session.

On Saturday morning, August 12th, Mr. Benton, Mr. Douglas and John P. Hale, sent for me to meet them in one of the retiring rooms. They there informed me that the leading friends of the bill then known to be in the majority, had on the night before determined on a "golden silence" as the line upon which to receive the onset of the enemy; and that the supporters of the proposed law would under no circumstances change their tactics, the leading feature of which, consisted in a determination to make no replies to the enemies of the bill, but to vote against all the usual motions for adjournment from that time (Saturday morning, Aug. 12, 1848) until Monday, 12 o'clock, M.

I re-entered the Senate Chamber with the deepest feelings of solicitude, and yet hopeful because of the assurances which had been given to me by the gentlemen I have named. I soon saw, however, that Calhoun and Butler, of South Carolina; Davis and Foot, of Mississippi; and Hunter and Mason, of Virginia, as leaders of the opposition, had girded up their loins and had buckled on their armor for the battle.

When I explain a little the reader will not be surprised that I felt very nervous. The bill had previously been in the Senate and having passed went down to the House where it was amended, and now it had come back for concurrence. The debate when the bill was first in the Senate was one of thrilling interest. "There were giants in those days," and the field on which they fought and measured strength with each other was one in which no man could be at a loss to find a foeman worthy of his steel, since he might be encountered such mighty men as Douglas and Benton, Webster, Calhoun and Corwin. The last named gentleman having gotten the floor in the debate on the Oregon bill, the Senate adjourned. In this manner it became known at once throughout the city that Mr. Corwin would on the next day, after the preliminary business of the morning hour had been disposed of, address the Senate on that bill—the provision in it taken from the ordinance of 1787, prohibiting slavery being the point of his departure, and human rights the subject of his address. At an early hour the gallery was literally packed full of the elite and beauty of the capitol, most of them being brought hither by an unconquerable desire to witness the triumph of right over wrong and of reason over passion which they felt

sure would be achieved by their favorite orator's burning words consuming to ashes the sophisms relied upon by the advocates of slavery to defend the most gigantic evil that ever cursed a nation or stained its escutcheon. On the floor of the Senate were diplomatic representatives from every Court in Europe already impatient to drink in the inspiration of the wonderful eloquence of an orator who had no equal in some respects and no superior in any.

The preliminary business of the morning hour having been hurried through, Mr. Corwin, of Ohio, rose to his feet; and during two hours commencing with his saying "Mr. President" and ending with the close of his wonderful address, no other sound was heard save occasionally that of one who seemed to catch at his breath, and no movement could be seen save in the varying muscles of the faces of the listening hearers as the orator's matchless manner, melodious voice, and ready command of most apt language alternately melted the heart into pity or kindled it into resentment, while with inimitable skill and unequalled power, he portrayed "the sum of all villainies."

This description of the effects of the address does not of course apply to such of his hearers as were the advocates of "the patriarchal institution." The faces of these seemed at times to be as much blanched with fear as would that of a nervous woman on being suddenly confronted by a death's head. At other times the face was equally white yet the compressed lips, and the flashing eye and a peculiar expression of the countenance as clearly as language could speak showed that the heart was a burning volcano of the most fiery passions in the throes of a terrible eruption.

When Mr. Corwin closed his memorable speech, there seemed to be quite an interval before those who heard gained their self-recollection, and a motion was made for the adjournment of the Senate. As with others I was slowly and thoughtfully retiring, Father Richie, the most venerable journalist in the United States, a life long advocate of slavery, and at that time editor of the government organ, nervously laid his hand upon my shoulder, and with lips as white as paper and quivering with emotion he said: "A few speeches such as that would sever the bonds of this Union!!"

With such a scene as this fresh in my memory, the reader will not be surprised if on Saturday morning, the 12th of August, 1848, I felt after my interview with Mr. Benton, Mr. Douglas and Mr. Hale, anxious for the results of the day's proceedings on the bill returned for concurrence in the amendments made in the House.

The friends of the bill, led by Mr. Benton, having taken their position, waited calmly for the onset of their adversaries, who spent Saturday until the usual

hour of adjournment in skirmishing in force, as if feeling the strength of their opponents. When the motion was made at the usual time in the afternoon for adjournment the friends of the bill came pouring out of the retiring rooms, and on coming inside the bar they voted *Aye* with very marked emphases. I ought, perhaps, to explain that when many of the friends of the Oregon bill went into this room to rest upon lounges, and to smoke and chat and tell anecdotes, they left behind a trusty corps to observe the movements of the enemy, and through a vigilant page stationed at the door to give notice when it was necessary, to rise and rush inside the bar to vote *Aye* on all motions for adjournment.

This state of affairs continued until after night when Judge Butler, of South Carolina, being the colleague of Mr. Calhoun, resorted to a sort of legislative filibustering with a view to thrusting aside the Oregon bill, under a motion to go into executive session for the purpose of enquiring into the conduct of Mr. Benton, who he alleged had communicated to Dr. Wallace, the reporter of the New York *Herald*, some things that had been said and done in secret session. During his remarks, Judge Butler characterized Mr. Benton's conduct as being "*dishonorable*." This word had only been pronounced when Mr. Benton sprang to his feet in great anger, and advancing rapidly toward Judge Butler, with his clenched fist and violently gesticulating, said: You lie, sir! You lie!! I cram the lie down your throat!!" Both men wore long hair that age had made as white as wool, and yet they were only kept from violence on the floor of the Senate Chamber by Gen. Dix, of New York, Mason, of Virginia, and others, who by placing themselves between the venerable Senators, prevented them from coming to blows. Thus restrained, Judge Butler said to Mr. Benton in a very loud and angry tone, "I will see you sir, at another time and place." Mr. Benton immediately rejoined in great heat, "Yes sir, you can see me at any other time and in any other place; but you and your friends will take notice that when I fight, I fight for a funeral."

Order being at length restored, the vote was taken on Judge Butler's motion, to go into Executive session, and the real object of the motion being seen to be the defeat of the Oregon bill through the consumption of time, it was lost.

Gen. Foot, the colleague of Jeff. Davis, then rose and in a drawling tone assumed for the occasion, said his powers of endurance he believed would enable him to continue his address to the Senate until Monday, 12 o'clock M., and although he could not promise to say much on the subject of the Oregon bill, he could not doubt that he would be able to interest and greatly edify distinguished Senators. The friends of the bill, seeing what was before them, posted a page in the doorway opening into one of the retiring rooms, and then after detailing a few of their number to keep watch and ward on the floor of the

Senate, withdrew into the room of which I have spoken to chat and tell anecdotes and to drink wine, or perhaps something even much stronger, and thus to wear away the slowly and heavily passing hours of that memorable Saturday night. Soon great clouds of smoke filled the room, and from it issued the sound of the chink of glasses, and of loud conversation, almost drowning the eloquence of the Mississippi Senator as he repeated the Bible story of the cosmogony of the world, the creation of man, the taking from his side the rib from which Eve was made, her talking with the "snake," as he called the Evil One, the fall of man, etc, etc. The galleries were soon deserted. Many of the aged Senators prostrated themselves upon the sofas in one of the retiring rooms, and slumbered soundly, while "thoughts that breathed and words that burned" fell in glowing eloquence from the lips of the Mississippi Senator, as he continued thus to instruct and edify the few watching friends of the bill, who, notwithstanding the weight of seventy winters pressed heavily upon some of them, were as wide awake as the youngest, and they sat firm and erect in their seats, watching with lynx eyes every movement of the adversaries of the bill.

At intervals of about one hour, the Speaker would yield the floor to a motion for adjournment, coming from the opposition. Then the sentinel page at the door would give the notice to the waking Senators in the retiring room, and these would immediately arouse the slumbering Senators, and all would then rush pell mell through the doorway, and when the inside of the bar was reached, would vote *No* with a thundering emphasis.

It happened, however on more occasions than one, that a sleeping Senator, not yet quite awake, even after getting inside the bar, voted "aye," then "nay," and then "aye," and finally "nay" again, to the great amusement of those who were sufficiently wide awake to see where the laugh came in.

Occasionally southern Senators, toward Sunday morning, relieved Gen. Foot by short, dull speeches, to which the friends of the bill vouchsafed no answers; so that Mr. Calhoun and his pro-slavery subordinates had things for the most part all their own way until Sabbath morning August 13th, 1848, at about 8 o'clock, when the leading opponents of the bill collected together in a knot, and after conversing together a short time in an under tone, the Mississippi Senator who had been so very edifying and entertaining during the night, said that no further opposition would be made to taking a vote on the bill. The ayes and nays were then called and the bill passed. The Senate of course then adjourned and many members came to me and congratulated me on the result of the struggle as though I had been even mainly instrumental in achieving the victory; although the fact was that I necessarily acted in the very subordinate position of one industriously furnishing facts and making suggestions

to members before the debate came on. Among those thus generous, kind and considerate, I may mention Mr. Vinton, of Ohio, and Judge Colameri, of Vermont. The last named gentleman was Chairman of the Committee on Public Lands, in the House, and for that reason I had often found it necessary to be with him at his rooms. On the passage of the bill, he took my hand in both of his, and with great warmth said: "From the profoundest depth of my heart I congratulate you, because throughout this struggle, and in the discharge of all your difficult duties, you have acted very much like a man who intended to return to his constituents.

To all of this I could not utter a single word of reply, no more than if I had never known or listened to the music of speech; and only my quivering lips betraying the intensity of my feelings and the depth of my emotions, interpreted the language of my heart to this incorruptible and great man, in whose presence I felt so small, yet so happy to be thus commended. In short, I may truly say that the time of the passage of this bill was the supreme moment of my life.

The reader has not failed to observe how conspicuous Gen. Foot made himself during the proceedings of this memorable Saturday night and Sunday morning. This he did to provoke Mr. Benton, and to finally so kindle his anger into flame that in an unguarded moment he might elicit from the great Missourian some remark of recognition; but the contempt of the veteran Senator for Gen. Foot could be measured only by the intensity of his hatred of Mr. Calhoun. Two anecdotes will illustrate how he despised the former and how well he hated the latter. Gen. Foot, while preparing a political pamphlet which he felt quite sure would annihilate Mr. Benton, but which of course left him as undisturbed as would be the bull on whose horn a gad-fly had lighted, sent to "the gentleman from Missouri" a message in about these words: "Please say to Mr. Benton that I am writing a very small book in which his name will appear very often." Whereupon Mr. Benton immediately replied in his inimitable manner: "And return for my answer to Foot that I am writing two very large books in which his name will not appear at all." Any one who is familiar with Mr. Benton's Congressional Debates in fifteen volumes, and with his Thirty Years in the United States Senate," in two large volumes, will know how well he kept his word.

The intensity with which Mr. Benton hated Mr. Calhoun will be seen in the spirit of a remark he made to me very soon after the adjournment of the Senate after coming to a vote on the bill for organizing a Territorial Government in Oregon. My way to my boarding house being the same that led to Mr. Benton's residence, we naturally fell in together as we left the Senate Chamber; and as naturally our conversation was on the subject of the scenes during the recent

protracted session. In allusion to the passage at arms between himself and Judge Butler, he said: "I did not blame Judge Butler so much as I did that scoundrel Calhoun, who, while egging on Butler, sat there looking as demure as a whore at a christening."

I had not, indeed, succeeded in accomplishing all I had in view in accepting the mission to Washington; and yet a brief notice of the results of my labors as the objects of my mission, embodied in the forms of law, will certainly be sufficient to show that these labors had not been in vain.

In the passage of this law, the great and primary object of my mission was secured, the immediate extension of the jurisdiction of the United States over the people and the country. In framing the bill I incorporated an appropriation of five thousand dollars for a Territorial Library; and in the passage of the bill I secured this also. But second only to the general object of obtaining an extension of the jurisdiction and laws of the United States over us, was that of obtaining a practical recognition of the Provisional Government and of the Land Law under it, as also of all judicial proceedings valid under existing laws of the Provisional Government. All these objects, too, were chrystalized into law by the 17th section. The 27th section appropriated fifteen thousand dollars for the construction of a light house at New Dunginess and one at Cape Hancock, as also for buoys to indicate the channel at the mouth of the Columbia river. This was the first appropriation Congress ever made for commercial purposes on the Pacific Coast; and I secured it mainly through the influence of Hon. Washington Hunt, of New York, then Chairman of the Committee on Commerce in the House. And I feel great pleasure in saying that in this gentleman, as well as those already named, I found an earnest co-laborer in everything tending to promote the permanent interests of Oregon.

A law providing for a grant of land to immigrants, had not, indeed, been actually passed. But a bill had been carefully prepared by me and it had been introduced in the House; and nothing prevented it from passing through both Houses, but the fact of the passage of the Territorial Bill being too late to reach the Land Bill. The Donation Law we now have, except the 11th section and two or three unimportant amendments, is an exact copy of the bill I prepared, and which Congress passed Sept. 27th, 1850, with scarce any opposition.

I had felt a strong desire to increase the educational facilities of Oregon, in the very beginning of the structure of its institutions, and as the foundation on which to build them. To this end, I framed the 20th section of the Act of Congress of August 14th, 1848, so that the 16th and 36th sections of land in each township should be reserved for the purpose of being applied to schools in Oregon and the States and territories to be erected out of it.

Up to the time of the passage of this bill, Congress had never appropriated

more than the 16th section for the support of common schools; and the late Nathan Dane, L. L. D., had labored long before he succeeded in inducing the government to appropriate that portion of the public lands. It will not then be thought strange that during a considerable time, the policy of adding the 36th section to an endowment already supposed to be munificent, was met by a resistance which threatened to be very grave, if not fatal to success. In my efforts to neutralize this hostility, and to meet the objections of honest and candid gentlemen, I was often made to feel that I required greater resources of prudence, knowledge and wisdom than I possessed. But I succeeded at length in bringing to the support of my measure the industry, patriotism and influence of such gentlemen as Hon. Mr. Vinton, of Ohio, and of Hon. Horace Mann, of Massachusetts, who seconded my efforts in such a manner that all serious opposition gave way before their logic and eloquence.

Daniel Webster once said in one of his great speeches that he would rather go down to posterity as the recognized author of the policy of appropriating the 16th section of the public lands to the support of common schools, than to commit his name and fame to all else by which he would be known in the history of his country. And I will frankly admit that when to this section of the public lands, the 36th was added by the passage of the bill, the thought that Providence had permitted me to be the instrument of conferring so great a boon upon posterity, filled my heart with emotions as pure as can be experienced by man. So, also, when I confess that I could not, and indeed, did not, wish to shut out from my mind the thought that when I rested from my life's toils and responsibilities, and had bequeathed my name to the generations my labor herein had blessed, I might be recognized as a benefactor and friend of my race, other reasons than those I have mentioned, will be seen why it was that I regarded the time of the passage of this bill as the supreme moment of my life. And as if to enhance my enjoyment of the event, such gentlemen as the Hon. Horace Mann, of Massachusetts, and Hon. Mr. Vinton and Corwin, of Ohio, and Col. Lamar, of Vermont, together with other large hearted gentlemen came clustering about me and most cordially congratulated me upon the success of a measure to which they had so largely contributed, but for which in the warmth of their friendship and the outpourings of their sympathy they so generously gave me all the credit and unselfishly commended me for successful efforts springing from a vehement desire to greatly enlarge the means of enlightenment to those who would else wander in darkness.

General Jo. Lane having been appointed by President Polk, Governor under the Act of Congress of August 14th, 1848, arrived at Oregon City on the 3d of the following March, and at once issued a proclamation inaugurating the Terri-

torial Government; and thus the Provisional Government surrounded with many pleasant and honorable memories passed into history and became a thing that was; the Oregon pioneers as such, having then yielded up to stranger hands the civil institutions they had reared on foundations as deep as the principles of natural justice and as broad as the common law.

Of the Oregon pioneers whose mutual trials and labors in establishing the institutions of society, civil government and Christianity on the Pacific Coast, bearing together the burthen and heat of the day, comparatively few now remain, the greater number having made their last remove and gone to that land from whose bourne no traveller returns; but those who yet wait in old age and infirmity for their time also to come, may look back through the vista of the years that are gone, and surveying the institutions their hands have assisted to build up in this our goodly heritage, may with honest pride and pure pleasure, exclaim: "This is in part my work."

THE PROVISIONAL AND TERRITORIAL SEAL.

On the title page of this pamphlet there is what purports to be the Seal of the Provisional Government. This is an error which the printer might well have made under the circumstances. My recollection is, that the Seal of the Provisional Government was simply a beaver; Legend, Territory of Oregon.

The Seal which appears on the title page was devised and procured by me in the city of New York, in the year 1848, and it was by me offered to Gov. Lane in 1849, who declined to receive it. In 1850, I offered it to Gov. Gaines and Secretary Hamilton who thought it so much more suitable for Oregon than the one they brought with them, that they at once accepted it, and it then continued to be the Great Seal until June 2d, 1859.

In note 3, General Laws of Oregon, page 496, Hon. Matthew P. Deady, the compiler, says:

"By an Act of January 18, 1854, the description of this Seal was directed to be deposited and recor ted in the office of the Secretary, to remain a public record; but so far as can be ascertained, the same was never done. The description of this Seal was as follows: In the center, a shield, two compartments. Lower compartment—in the foreground, a plow; in the distance, mountains. In the upper compartment—a ship under full sail. The crest, a beaver. The sinister supporter—an Indian with bow and arrows, and a mantle of skins over his shoulder. The dexter supporter, an eagle, with wings displayed. The motto—*alis volat propriis*—I fly with my own wings. Field of the lower compartment, argent; of the upper, blue. It is to be regretted that this Seal was not continued as the Seal of the State, by simply substituting, "the State of Oregon" for "the Territory of Oregon." In design and propriety, it is in every way superior to the obscure and meaningless one of the State—particularly is the loss of the sagacious beaver to be regretted, the most appropriate symbol of the history and people of Oregon that could have been selected from the treasury of heraldry. It is to be hoped that the Legislative Assembly will yet restore him to his proper place in our coat of arms." J. QUINN THORNTON.

NOTE BY THE PUBLISHING COMMITTEE.—It will be seen, by reference to the cover and title page, that no special mention is made of the "History of the Provisional Government." Both were printed before the Committee had concluded to solicit that paper from Judge Thornton. Having been compelled to write it during leisure hours when not engaged in professional duties, the publication of this pamphlet has been unavoidably delayed several weeks. It will be found valuable and interesting.

SALEM, April 20, 1875.

WILLARD H. REES,
E. N. COOKE,
J. B. McCLANE,
S. F. CHADWICK.